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A Few Remarks on Equitable Law (from the Perspective of the System of Statutory Law)

Kilka uwag na temat prawa słusznego (perspektywa systemu prawa stanowionego)

I.

The issue of equity and equitable law is one of the main problems of the philosophy of law. Equity, the nature of equity, the relations between law and equity are classic topics that were posed as early as in ancient times. For more than two thousand years it has been repeatedly claimed in the sphere of European civilisation and culture, including the legal culture, that law has to be equitable.

There are many approaches, concepts and theories of equity. The first one goes back to ancient Greece, particularly the thought of Aristotle.¹ Then, this concept was delved into by medieval and modern thinkers.² Today, it is still valid and subject to discussion and analysis.³ And it needs to be stressed that

¹ On equity in Greek philosophy cf. W. Dziedziak, *O prawie słusznym (perspektywa systemu prawa stanowionego)*, Lublin 2015, pp. 15–19; cf. also H. Piętka, *Słuszność w teorii i w praktyce*, Warszawa 1929, pp. 45–53.

² On concepts of equity in medieval science, in modern pre-Kant science, in Kant's approach, and in post-Kant science (as named by H. Piętka) see more broadly in H. Piętka, *op. cit.*, pp. 70–155. In neo-Kantianism, we should distinguish Rudolf Stammler. Cf. R. Stammler, *Die Lehre von dem richtigen Rechte*, Berlin 1902; cf. also G. Radbruch, *Rechtsphilosophie* (1932), [in:] G. Radbruch, *Gesamtausgabe. Rechtsphilosophie*, vol. II, Heidelberg 1993.

³ R. Alexy, *The Argument from Injustice. A Reply to Legal Positivism*, Oxford 2002; R. Dworkin, *Biorąc prawa poważnie*, Warszawa 1998. It needs to be stressed that some modern approaches to equity (or even most of them) seem to refer to justice rather than equity itself, and if they refer to equity, it is not in its substantial understanding.

it is extremely significant. Equity has centuries-old doctrinal traditions, but also practical, purely practical, ones. In Roman law, as well as in the English judiciary, equity became “the second law”, the second system of law, that was based on equity. Moreover, in the great civil codifications of the 19th century the existence of equity (whatever its definition) involves the use of reference clauses. In the Napoleonic Code (*Code civil*) of 1804 there are references to equity and good faith. In the Austrian civil code ABGB (*Allgemeines Bürgerliches Gesetzbuch*) of 1811 there is a reference to “natural legal principles” and “equity considerations”. Also the German civil code BGB (*Bürgerliches Gesetzbuch*) of 1896 (entered into force on 1 January 1900) makes a reference to equity, as well as good faith. Equity reference clauses are naturally still present in many legal regulations; they are included in the law and legal provisions. In Polish science, despite the great importance of the issue, there has been, in principle, only one attempt to develop a theory of equity made so far. It is the theory by Henryk Piętka presented in a monograph entitled *Śluszność w teorii i w praktyce*, published in Warsaw in 1929. And since then the issue of equitable law has not been discussed. Obviously, there have been studies which either directly or indirectly, sometimes merely marginally, were related to the issues of equity in the law, however, no theory of equitable law has been formulated. Most generally referring to the theory of Piętka, equity in his approach is subjectivised, despite the author’s attempt to objectivise it – diverse and collated. In fact, Piętka reduces equity to psychic experiences.⁴

II.

However, it is possible to develop a theory of equitable law based on clear, solid and permanent grounds that – which is not irrelevant – also allowed for, in principle, the analyses of the meaning of the word “equity”. They do not defy it.⁵

If asked about the basic criterion and determinant of equitable law, it needs to be said that this basic, fundamental criterion and the determinant is the man (the human being), the being that is not only physical, but also spiritual, endowed with its due natural, inherent and inalienable dignity.

Equitable law is law that is directed at the man (entirely affirming and respecting its inherent, inbred dignity). This is the law which implements the requirements of justice. This is the law that is good and based on truth.

Specifically, the new substantial theory of equitable law is based on the following values. These are: truth, good, fairness and human dignity. It can be said

⁴ See more: W. Dziędziak, *op. cit.*, pp. 32–35.

⁵ Cf. *ibidem*, pp. 41–43.

that the common denominator of these values is the human dignity of every human being. Let us now outline the understanding of these values.⁶

Which meaning of truth (Greek ἀλήθεια [*alétheia*], Latin *veritas*, *verum*) is meant here? It is the basic, classic understanding of truth. Truth, in the cognitive sense (the epistemic dimension of truth) is the adequation of the intellect to the thing (*veritas est adaequatio intellectus et rei*). Thus, it is about the conformity of the content of cognition to its subject, i.e. “coordination of the judgement and the reality”. In the classic sense, truth is not the result of any convention, agreement or common consent. It is not established by any discussion, it is not decided by the man or by means of vote.

What is important in formulating (creating) standards is the truth about the reality, including the truth about the existential dimension of the human being, which is supposed to be (should be) the starting point of creating equitable law. Thus, it is about the truth about the reality, including the truth about the man. This also includes the beginning of human life. And it needs to be emphasised that the detachment of the intellect from what actually is, what is independent of the cognising subject, inevitably leads to “dealing” with the area of some sort of “thought-of reality”. Then one can explore one’s own ideas, whereas the application of law is about the compliance of actual findings with the reality. If one departs from the principle of material truth, then the reality (elements of actual state) becomes essentially a subject of some convention, negotiations. It is, as if, “agreed-upon reality”.

When it comes to the good (Greek ἀγαθόν [*agathón*], Latin *bonum*), it is about the good in the moral sense.⁷ The good in the moral sense is the good of man and the common good. In discussing the good, it needs to be concluded that the man is the good in itself – it is *bonum honestum*. We refer here to the classic distinction in the philosophical tradition (the distinction of the three great areas of good), and this division is already also of ethical nature, according to which the first and the fundamental dimension of the good is the honest good (*bonum honestum*). The foundation of morality is the honest good. The honest good is the good of the objective aim. And it is the appropriate, real good. The honest good is “the good in itself”.⁸ The man and his life is always the honest good, that is the good which is the objective, absolute aim.

On the other hand, the useful good (*bonum utile*) is the good of the means, the means to the accomplishment of some aim. *Bonum utile* – is the non-personal being which is the means to the end that is the personal being (the man) – the end

⁶ The understanding of these values is more broadly discussed in the monograph: W. Dziedziak, *op. cit.*, pp. 58–77.

⁷ It needs to be remembered, however, that in philosophy it was and still is claimed that the basis of any understanding of the good is the good in the metaphysical sense. Cf. A. Maryniarczyk, *Dobro*, [in:] *Powszechna encyklopedia filozofii*, t. 2, Lublin 2001, p. 614.

⁸ Cf. M.A. Krąpiec, *Człowiek jako osoba*, Lublin 2009, pp. 209–210; cf. *Idem*, *Człowiek i prawo naturalne*, Lublin 2009, p. 16.

in itself. Being a means to the end is being useful to the subject. The man cannot be reduced to the level of *bonum utile*. If the man chooses *bonum utile*, then the aim is the benefit derived by the subject. And the third type of good is the pleasant good (*bonum delectabile*) that is the good of personal aim. It is about the function of desiring and its aim is the function of action itself.⁹

While speaking about equitable law, it is the honest good that is basically meant. That is the good that “should be done” for itself, and not for its usefulness (when it is a means to another aim) or the pleasure it involves. The pleasant, or useful, good may be important only if it is at the same time the honest good, as they may not exclude each other and they may complete each other. Yet, obviously, the good also involves action.¹⁰ Useful action or acting for pleasure is essentially good when it is correlated and connected with the honest good. And we know that the man is the honest good, and cannot be reduced to the dimension of useful or pleasant good. The man is the good that cannot be treated instrumentally; it demands to be treated disinterestedly. The legislator cannot exclusively be guided or governed by the useful good as the ultimate aim, or by the good of the personal aim. Also the person applying law cannot only be guided by *bonum utile* or *bonum delectabile*. In their actions, the subjects making and applying law are to be guided by the honest good and to choose this good while making decisions, as it is the appropriate measure. The man, being the honest good, demands unconditional affirmation, the man is the super-utilitarian good. He is the aim in itself.

And what is the common good? Most generally speaking, the common good (*bonum commune*) is the integral, comprehensive development of the human being¹¹ and living in conditions corresponding to the human dignity. The actualisation of personal potentialities develops and improves a given man and it also serves others. The personal development of man is “non-antagonistic good” and it does not threaten the good of other people.¹²

The common good is ultimately explained and justified by the good of man.¹³ Statutory law is to serve the human good and the common good.

⁹ Cf. *Idem*, *Człowiek jako osoba*, p. 210; cf. also A. Maryniarczyk, *Człowiek wobec świata. Studium z metafizyki realistycznej*, Lublin 2009, p. 121.

¹⁰ Usefulness and pleasure concerns both things and action.

¹¹ Cf. M.A. Krąpiec, *Dobro wspólne*, [in:] *Powszechna encyklopedia filozofii*, t. 2, Lublin 2001, p. 631.

¹² Personal development of man – this category is not an expression of any particular thought characteristic of certain philosophical trends and is not any abstraction. It is mentioned by normative regulations, including the Universal Declaration of Human Rights of 1948.

¹³ One needs to agree with Marian Zdyb, who writes: “The content of the common good should be viewed through the prism of an individual man, as the state, the society, a social group, etc. are necessary social systems or might be such, and they are also systems necessary for the full fulfilment of man, yet always only relations-based formations”. M. Zdyb, *Istota decyzji*, Lublin 1993, p. 30. And the man (human being) is an independent, full and unique being.

When it comes to justice (Greek δικαιοσύνη [*dikaioσύne*], Latin *iustitia*), we adopt the classic understanding, thus it is about “rendering to everyone his own” (*suum cuique tribuere*).¹⁴ A definition that is universally known is the concise definition by Domitius Ulpianus (Ulpian): *Iustitia est constans et perpetua voluntas ius suum cuique tribuendi*.¹⁵ It needs, however, to be made more specific by adding that will is or should be inspired and guided by the reason. Justice is the necessary principle of social life. It preserves its sense when it is justice to all.

Justice requires “to render to everyone his own”. *Suum cuique* – to render “to everyone his own”. To render what? What is “his own”? What is own and due? It is about human rights. The man has rights stemming from his inherent dignity. These rights stem from the existential structure of man. They are natural rights. The formula “to render to everyone his own” ought to be associated with the natural right, the subjective right, the right to something, thus, it means to render “something he has the right to”. These natural rights should be secured, guaranteed and fulfilled by the statutory law, and they cannot be rejected. The existence of these rights obliges the legislative authority to secure them. Let us mention the fundamental human rights: the right to life, the right to birth and the right to personal development. Obviously, the principle of “rendering to everyone his own” can be respected by the legislative authority, then the rights are part of the statutory law. It should also be kept in mind that in many more specific issues the entitlement to render to someone what he is due, will be provided for in the statutory law if its regulations are in conformity with the general rules of justice.

Human dignity (Latin *dignitas hominis*) is naturally the inherent (inborn), inalienable and indelible dignity, thus, the personal dignity. This dignity is the basis of human rights, is the basis and source of human rights and their protection.¹⁶ Human dignity is unacquirable and it is inseparable from the man. It is related to the very essence of man. The man has it by virtue of his existence.

Let us remind the reflection on human dignity made by Immanuel Kant in his famous imperative: “Act so that you treat humanity, whether in your own person or in that of another, always as an end and never as a means only”.¹⁷

¹⁴ The statement that “Justice involves rendering to everyone his own” was also known to Plato and Aristotle. As an example cf. Plato, *The State*, vol. I, 332 C, trans. by W. Witwicki, Kęty 2009, p. 19.

¹⁵ D. Ulpianus, D. 1, 1, 10 pr.

¹⁶ There are also other types of dignity distinguished: personality dignity, personal dignity or social dignity. Yet, only the inherent and inalienable dignity is the source of human rights. It is called “personal dignity”, or sometimes the “dignity of man”, “human dignity” or the “dignity of human being”. Cf. F.J. Mazurek, *Godność osoby ludzkiej podstawą praw człowieka*, Lublin 2001, pp. 19–20.

¹⁷ I. Kant, *Uzasadnienie metafizyki moralności*, trans. by M. Wartenberg, Kęty 2013, p. 46. Such an intuition is supposedly expressed by the old saying of the Stoics: *Homo homini res sacra*.

Let us emphasise, thus, that equitable law is founded on the indicated values. Each of these values should be respected in the legislative activities (in lawmaking) as well as in law application so that the law (norms) and decisions should be equitable.

And it needs to be clearly indicated that in the Polish system of law, the criteria of equitable law are legal and constitutional values, and they can be found in the Constitution of the Republic of Poland. These are the universal values referred to in the Preamble to the Constitution of the Republic of Poland: truth,¹⁸ good, justice and the principles which supplement them: the principle of common good from Art. 1 of the Constitution and the principle of social justice from Art. 2 of Constitution, as well as the principle of inherent human dignity from Art. 30 of the Constitution.¹⁹ It does not mean, however, that these values are accounted for and respected in the practice of making and applying law.

III.

As far as lawmaking is concerned, equity marks the boundaries of the legislative activity.²⁰ While formulating norms, the person making law must refer to the reality and must take into account the objective reality. When proceeding to make law, one needs to have some knowledge of the reality, including the knowledge of the existential dimension of the human being. It is the reality (and the man in particular) that is, after all, the rationale behind the rules that are to regulate this reality in some way. Thus, the rational (perfect) legislator must have empirical knowledge,²¹ and, obviously, the best possible knowledge of legal matters. The truth about the man, his existential structure and nature must, therefore, be the starting point and the basis for creating equitable law. The truth about the man reveals against the background of the cognition of the world. The man existentially outdoes other beings available to our experience. The man has a unique position in the world of beings, is a unique being,²² transcending the world and nature. The man goes beyond human communities and

¹⁸ It needs to be stressed that the Constitutional Tribunal in its decision of September 12, 2005 (SK 13/05, OTK ZU 2005, Series A, No. 8, item 91) recognised that the truth is a normative concept and wrote: “The legislator in the Preamble to the Constitution recognises the truth to be a universal value that the system of the Republic of Poland is based on”.

¹⁹ Art. 30 of the Constitution of the Republic of Poland of 1997 stipulates: “The inherent and inalienable dignity of the person shall constitute a source of freedoms and rights of persons and citizens. It shall be inviolable. The respect and protection thereof shall be the obligation of public authorities”.

²⁰ See more on the role of equity in lawmaking: W. Dziędziak, *op. cit.*, pp. 120–204.

²¹ In lawmaking, scientific data need to be taken into account. Making decisions requires substantive knowledge in the area the regulation pertains to. The basis for making legislative decisions should be scholarly knowledge in the area the given normative act pertains to.

²² Man among all beings in the world is the most perfect and the most important being and “the highest form of being”.

transcends the society. The man has a separate and the most distinguished position among beings. The truth about the man involves the recognition of the uniqueness and individuality of man among other beings. The recognition of the truth about the man involves the recognition of the subjectivity and dignity of man. It is the recognition of human subjectivity and the “subjectivity of the world”.

The rejection of the truth about the man prevents the creation of a system of norms of equitable law. The man should be viewed holistically, integrally, and not reductively. You cannot include only one (or some) of the dimensions, or only one (or some) of aspects.²³ The man is not a unidimensional being. The reductive concept of man results in the instrumental treatment and approach to the human person.

The truth about the man allows to formulate norms, and it needs to be assumed to have a “normative power”. The truth found enables to find out what is good for the man.²⁴ The truth, in a sense, conditions the good (the good in the moral sense). The truth about the man, allows one to choose the good. Thus, the epistemological value, that is the truth, also involves moral values, the good in particular. Thus, the truth gives sense not only to theoretical cognition but also to practical cognition related to the moral order. Truth also enables to find out what is fair.

Harry G. Frankfurt poses an important question: how, attaching too little importance to the truth, can one “make sufficiently adequate assessments and make decisions concerning the most appropriate conduct of public affairs?”²⁵

Let us emphasise once again that in lawmaking all the values founding equitable law must be respected.

IV.

In the application of law, it is about an equitable decision, equity *in concreto*.²⁶ The role of equity is associated with the requirement to pass an appropriate (equitable), individual judgment. Therefore, it is about the equity of a specific decision, concrete equity, which may be the “improvement” of the statutory law in terms of its practical instantiation. It cannot, after all, be about unjust decisions that are in accordance with “the letter of the law”. This category, if necessary, can also be a tool to fix and correct the law, and allows one to oppose and go beyond the obedience to the laws.

Equity *in concreto* – is “equitable thing itself”. It is the decision which is something that is “equitable here and now”, that is the most perfect, or at least better than other things.

²³ Man cannot be understood fragmentarily. All narrow, partial and reduced concepts of man are “the flattening of man”, and, sadly, lead to the formation of inequitable law.

²⁴ All attempts at relativising the truth lead to the relativisation of the good.

²⁵ H.G. Frankfurt, *O prawdzie*, trans. by H. Jankowska, Krosno 2008, p. 19.

²⁶ More on the role of equity in the processes of the application of law, and on the paths of reaching an equitable decision, see: W. Dziedziak, *op. cit.*, pp. 205–274.

It seems that in every situation it is possible to make an equitable decision, based on real (compatible with the reality) findings of fact, which takes into account the good of the human person and the common good, justice and the dignity of the addressees of the decision. And when the basis of the decision is the objective truth (truth in the classic sense) that is actually fully determined and when, of course, the other requirements of equity are met, the equitable decision will be the only appropriate, or simply the most perfect, one. And if the basis of the decision will be the so-called judicial truth – unless it is not to the detriment of the parties to the proceedings and if the parties agree upon it – the equitable, or rather *quasi* equitable, decision will be better than others under such established things. This will not, however, be the only equitable decision – unless the judicial truth (formal and legal) adopted by the court, in fact, coincides with the objective truth (the actual one) which cannot be excluded.

Equity – as mentioned before – in the acts of the application of law may be a remedy to the wrong and substantively inequitable law and a measure preventing the need to refer to the slogan *summum ius summa iniuria*. Then it is essential to refer to higher values, to equity.²⁷ One needs to agree with Zygmunt Ziemiński, who says:

(...) there are such limits of inequity of law in the crossing of which a decent judge cannot be guided by the concept of ‘rendering to everyone what he is due in accordance to law’. There is such a limit beyond which all that is left is a *non possumus* declaration, regardless of whether it involves the danger of breaking the professional career or even repressions.²⁸

But even if the law (legal institutions, regulations) is substantively equitable, is “equitable in itself” – due to the general and abstract nature of norms – there may be a “tension” between the general nature of the law and the individual nature of cases. Here is revealed the role of equity in its traditional sense (in the present paper, however, the broader understanding is adopted). It is the issue of classical *epieikeia* (Greek ἐπιείκεια), which was studied by Aristotle, for whom this category, given the general nature of norms, was a necessary correction of the statutory law that could also fill gaps in the law. In the fifth book of *The Nicomachean Ethics* he said:

²⁷ In the case of *gesetzliches Unrecht*, the judge’s or the official’s obligation is to choose, in accordance with the postulates of equity, the judgement in accordance with such a norm that a just and reasonable legislator guided by the good and respecting the human dignity would establish for this category of actual facts which encompasses this specific *casus*. Therefore, when the law (the letter of the law) is clearly unjust and inequitable, and is a form of lawlessness, the person applying it has to, as if, stand in the position of the legislator, replace him in order not to fall afoul of the obvious content of moral norms as well as his conscience. An alternative to the official disobedience to unjust law, adopting the form of following the pattern of removing a gap in the law, is the voluntary, or even manifest, resignation of the position correlated with the acts of law application.

²⁸ Z. Ziemiński, *O pojmowaniu sprawiedliwości*, Lublin 1992, p. 129.

(...) The same thing, then, is just and equitable,²⁹ and while both are good the equitable is superior. (...) the equitable is just, but not the legally just but a correction of legal justice. (...) When the law speaks universally, then, and a case arises on it which is not covered by the universal statement, then it is right, where the legislator fails us and has erred by oversimplicity, to correct the omission – to say what the legislator himself would have said had he been present, and would have put into his law if he had known.³⁰

Epieikeia was also discussed by Aristotle in *Rhetoric*:

Equity³¹ (...) is justice that goes beyond the written law. These omissions are sometimes involuntary, sometimes voluntary, on the part of the legislators; involuntary when it may have escaped their notice, voluntary when, being unable to define for all cases, they are obliged to make a universal statement, which is not applicable to all, but only to most, cases (...)³².

Aristotle indicates, thus, the function of equity in the interpretation of law.

In the Polish legal system, due to the fact that the criteria of equitable law are legal and constitutional values, an equitable decision can be made within the framework of law. Courts have quite a broad scope of discretion. It should be used with the “equity in mind”.

In the judiciary application of the law, the final decision – omitting the subsequent stages of reasoning and justification – essentially “touches upon” the basic and primary values and appraisals (truth, good, justice and the dignity of the human person). The legal effects established in the final decision, indeed, always concern the man (directly or indirectly).

From the perspective of equity, there is no doubt that if it was not possible to derive the values founding equity from the system of law, if the legal system, the Constitution did not include the determinants of equity, that is the universal values which are the components of equity, and equity was not incorporated in the normative act and in legal regulation, then in these rather infrequent cases, the decision should be also (has to be) equitable and based on the values that are not expressed in the legislation; as these values are primary to the statutory law and they are pre-law values.

And it should be noted that equity does not assert arbitrariness of judicial appraisals and decisions. On the contrary, it, in fact, directly opposes it. A reference to equity is never a relativisation of the decision and has nothing to do with the arbitrariness of the decision.

²⁹ In the translation of the work by Aristotle by D. Gromska, the author does not use the term “equity” but “rightness”. However, in the relevant literature the word *epieikeia* is translated and understood as “equity”.

³⁰ Aristotle, *The Nicomachean Ethics*, Book V, 10, 1137 b, trans. by D. Gromska, Warsaw 2008, p. 189.

³¹ In his translation, H. Podbielski uses the term “rightness”, which does not, however, change the traditional translation of *epieikeia* as “equity”.

³² Aristotle, *Rhetoric*, Book I, trans. by H. Podbielski, Warsaw 2009, 1374 b.

V.

Equity in the sense adopted opposes the relativisation of the processes of lawmaking and application of the law. It also opposes different forms of moral and legal scepticism and nihilism. The values underlying equity set the boundaries of equitable law that cannot be filled with any content. Of course, equity in reference to the law, also prevents the decision-making voluntarism (legal and legislative).

Founding the law on the indicated criteria would protect the man from the danger stemming from the very statutory law. It would prevent the statutory law from being a threat to the man and being against the man. The law cannot be against the man, and it cannot be against the human life.

Equity is “an instance” that can protect the man and his dignity – the dignity of the human person. It can actually protect, as equitable law, as far as the bases of its creation are concerned, can be statutory if a few basic questions are answered. These particularly include the following: 1. When does life begin? The answer to the question about the beginning of human life is not a question of one or another worldview. It is a scientific question;³³ 2. Since when is one entitled to dignity?; 3. And the one that may cause most difficulties: since when is a human being (the man) a human person? And it is exactly the values founding equitable law that provide such an answer.³⁴

Let us also emphasise that without these foundations that have been indicated in the present study, all further, more detailed research, reflections, discussions, considerations, issues and problems concerning equitable law would be superficial.

There is one more reflection. It may seem that discussing such issues today, founding equitable law on these values, and so understood, puts the person undertaking it – in the face of all kinds of relativism – in an intellectually losing position from the very start. However, this is not the case. Equitable law founded on the values mentioned may be the answer to today’s “relativistic challenges”³⁵

³³ The truth about the man is also, as mentioned before, the truth about the beginning of the human life. The data coming from the life sciences (particularly embryology and genetics) reveal this truth. See more in W. Dziędziak, *op. cit.*, pp. 131–140. Obviously, we do not reduce the man to biology only. The reality of man (the human person) does not remain within the boundaries of biological findings. The knowledge about the biological development of man is a starting point. Cf. also B. Chazan, *Prawo do życia. Bez kompromisu*, Kraków 2014.

³⁴ More broadly: W. Dziędziak, *op. cit.*, Chapter IV.

³⁵ The problems of this kind have been present for ages. They have been visible since the antiquity, for example, in the thought of the Sophists. However, their escalation today is very clear. One can even speak, as it seems, about the dictate of relativistic mentality. This kind of approach, that is relativism, was, in a sense, a problem to Gustav Radbruch who wrote: “Relativism [however] cannot be the final word of the philosophy of law” – *Idem, Filozofia prawa*, trans. by E. Nowak, Warszawa 2009, p. 80. And one needs to agree with the statement today.

that are so distinct in morals, ethics, science or culture. They are distinct in the systems of statutory laws and the continental legal culture to the perspective of which the considerations concerning equitable law are referred.

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SUMMARY

The article discusses equitable law with reference to the perspective of the system of statutory law. The author founds the substantive theory of equitable law on the following values: truth, good, justice and human dignity. The paper defines the understanding of these values. Then, it indicates that they should be respected in legislative activities (in lawmaking) as well as in the application of law so that the law (norms) and decisions should be equitable. It is also emphasised that equity is “an instance” that can protect the man and his dignity – the dignity of the human person.

Keywords: equitable law; truth; good; fairness; dignity of man

STRESZCZNIK

W artykule zostały przedstawione uwagi na temat prawa słusznego w odniesieniu do perspektywy systemu prawa stanowionego. Substancjalną teorię prawa słusznego autor buduje na następujących wartościach: prawda, dobro, sprawiedliwość, godność człowieka. W opracowaniu wyjaśniono rozumienie tych wartości. Następnie wskazano, że powinny być one respektowane w działalności prawodawczej (w stanowieniu prawa) oraz w stosowaniu prawa tak, aby prawo (norma, normy) i decyzje były słuszne. Zaakcentowano również, że słusność jest „instancją” mogącą ochronić człowieka i jego godność – godność osoby.

Słowa kluczowe: prawo słuszne; prawda; dobro; sprawiedliwość; godność człowieka