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Krytyczna glosa do wyroku Trybunału Konstytucyjnego z 22 czerwca 2022 r. wydanego w sprawie SK 3/20

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Streszczenie:

Artykuł 598^{15} § 1 w związku z art. 598^{16} § 1 k.p.c., umożliwiający zagrożenie nakazaniem zapłaty oraz nakazanie zapłaty za niewłaściwe wykonywanie i niewykonywanie kontaktów uznane zostały przez Trybunał Konstytucyjny wyrokiem z 22 czerwca 2022 r. za niezgodne z art. 48 ust. 1 zdanie drugie i art. 72 ust. 3 Konstytucji w zakresie, w jakim obejmują sytuacje, w których zdarzenia objęte dyspozycją badanych przepisów są związane z zachowaniem dziecka, niewywołanym przez osobę, pod której pieczą się ono znajduje.

Skuteczność i sprawność postępowań o wykonanie kontaktów, którym dotychczas zarzucano długotrwałość i nieefektywność, w następstwie orzeczenia zostanie znacznie obniżona, ponieważ sądy rozpoznające wnioski składane w trybie badanych przepisów zmuszone będą badać, czy nie istnieją okoliczności faktyczne mogące uzasadniać niekonstytucyjność rozstrzygnięć.

Opracowanie w syntetycznej formie obejmuje opis okoliczności towarzyszących wydaniu orzeczenia, argumentację przyjętą przez Trybunał Konstytucyjny oraz postulowane działania ustawodawcze. Artykuł skupia się przy tym na analizie negatywnych skutków wyroku w sferze stosowania przepisów dotyczących wykonywania kontaktów.

Słowa kluczowe: dobro dziecka, wykonywanie i niewłaściwe wykonywanie kontaktów

Critical gloss to the judgment of the Constitutional Tribunal of June 22, 2022 in the case SK 3/20

Abstract:

The provisions of Article 598^{15} § 1 of the Code of Civil Procedure, in conjunction with Article 598^{16} § 1 of the Code of Civil Procedure, enabling the threat of an order for payment and an order for payment for improper performance and non-performance of contacts, were found by the Constitutional Tribunal in its Judgment dated 22 June 2022, to be incompatible with the provisions of Article 48 section 1, 2nd sentence, and Article 72 section 3 of the Constitution of the Republic of Poland insofar as they cover situations in which the events covered by the

[1] Radca prawny wpisany na listę Okręgowej Izby Radców Prawnych w Gdańsku pod numerem GD/GD/3316.

disposition of the provisions under review are related to the behavior of the child, not caused by the person under whose custody the child is placed.

The effectiveness and efficiency of proceedings for the performance of contacts, which have so far been alleged to be lengthy and ineffective in the wake of the judgment, will be significantly reduced, as courts reviewing applications filed under the provisions under review will be forced to examine whether there are any factual circumstances that may justify the unconstitutionality of the decisions.

The study, in a synthetic form, includes a description of the circumstances surrounding the issuance of the judgment, the arguments adopted by the Constitutional Tribunal and the postulated legislative actions, while focusing on the analysis of the negative consequences of the Judgment in the sphere of the application of contact performance regulations.

Keywords: the best interest of the child, improper performance and non-performance of contacts

I.

In its judgment of 22 June 2022[2], the Constitutional Tribunal ruled that Article 598^{16} § 1 in conjunction with Article 598^{15} § 1 of the Act of 17 November 1964 – Code of Civil Procedure[3], insofar as it covers situations where the non-performance or improper performance of obligations is related to the behaviour of the child not caused by the person under whose custody the child is placed, was incompatible with the second sentence of Article 48(1) and Article 72(3) of the Constitution[4].

The ruling being the subject matter hereof was issued as a result of examining the constitutional complaint submitted under Article 79(1) of the Constitution in conjunction with Article 77(1) of the Act of 30 November 2016 on the organisation of and procedure before the Constitutional Tribunal[5]. The applicants complained about the incompatibility with the Constitution of Article 598^{16} § 1 in conjunction with Article 598^{15} § 1 of the Code of Civil Procedure, insofar as it covers situations where the non-performance or improper performance of obligations arising from a contact arrangements ruling or settlement before the court or mediator does not make the order to pay a certain amount of money dependent on the behaviour and will of the child at the heart of the said violation.

[2] Wyrok Trybunału Konstytucyjnego z 22 czerwca 2022 r., SK 3/20 (Dz. U. z 2022 r. poz. 1371).
[3] Ustawa z dnia 17 listopada 1964 r. – Kodeks postępowania cywilnego (Dz. U. z 2021 r. poz. 1805, ze zm.), dalej: k.p.c.
[4] Konstytucja Rzeczypospolitej Polskiej z dnia 2 kwietnia 1997 r. (Dz. U. Nr 78, poz. 483, ze zm.), dalej: Konstytucja.
[5] Dz. U. z 2019 r. poz. 2393.

Incompatibility with the Constitution raised by the applicants concerned the scope in which the provisions impugned did not make the payment order conditional on the attitude and fault of the parent entitled to contacts, as well as the scope in which they omitted the attitude of the child regarding contacts to be performed.

The applicants claimed that the impugned provisions violated, among others, Article 48(1) and Article 72(1) & (3) of the Constitution, but also the principle of equality before the law, the right to property and its protection, the mother's and child's liberty and dignity, the right for the protection of private life, and the child's right not to be treated instrumentally.

The judgment was issued in the proceedings to issue a payment order for the non-performance of the obligation arising from arrangements governing a father's contacts with his daughter and from the decision threatening a payment order for the violation of contact arrangements (which was upheld by the court of appeal), which led to issuing the payment order, also upheld by the court of appeal.

The applicants' position was that the said ruling was issued under provisions which were incompatible with constitutionally protected rights in the scope that they allowed an unauthorised differentiation of the legal situation of the parties to the proceedings to issue a payment order against a person not performing their obligations under a contact arrangements decision, regardless of examining the fault of the person entitled to contacts.

The provisions, the constitutionality of which was questioned by the applicants, mandate that only the attitude of the person obliged to perform contacts is focused on, leading to no assessment of the attitude of the parent entitled to contacts (they may make the child more unwilling to engage in contacts, as manifested in relation to therapeutic influence) and leaving no opportunity to determine the attitude towards contacts of the minor child themselves.

The provisions indicated also allegedly infringed on the right to a fair trial because of the courts' limited jurisdiction in cases on the performance of contact arrangements, and because of the fact that there was no option to file a cassation complaint therein.

Furthermore, as specified, the provisions impugned in a way force the child to honour arranged contacts, also against their will and through the use of physical coercion, under the pain of a payment order for non-performed or improperly performed contacts.

What testifies to the legal importance of the provisions under review is the fact that positions in this case have been presented by the Children's Ombudsman, Attorney General and, on behalf of the Sejm, the Marshall of the Sejm.

Broadly elaborating on the issues of no instrumental treatment of children and regulations serving to protect the best interest of the minor child, the Constitutional Tribunal found that the

dispositions of the provisions under review in terms of their compatibility with the Constitution – despite not being addressed directly to the minor child – interfere with the sphere of their autonomy in the moment the child does not express a will to engage in contacts with a parent – which, in a situation when the parent is financially sanctioned for the non-performance of obligations imposed on them as a result of honouring the child's will, should be deemed inconsistent with the reference norms adopted in the case. It was also noticed that the order to interview the child, and, if possible, to account for their attitude as expressed, has a direct legal consequence due to that provision not being subject to exclusion under Article 81 of the Constitution. The Constitutional Tribunal believes the obligation to interview a minor child and account for their attitude within a certain framework is mostly fulfilled between the parent (guardian) and the child, which the guardianship court should bear in mind in issuing contact arrangement decisions. The Tribunal's opinion is that the reference norms invoked give rise to an obligation for the minor child to be heard by the court, also at the stage of adjudication under the provisions impugned.

Concluding its assessment of constitutionality of the regulations impugned, the Tribunal found that Article 598^{15} § 1 and 598^{16} § 1 of the Code of Criminal Procedure infringed on the constitutional standard of protecting the best interest of the child insofar as they cover situations where the non-performance or improper performance of the obligations is related to the behaviour of the child not caused by the person under whose custody the child is placed.

Judge Michał Warciński submitted a dissenting opinion, stating that also in the scope in which the Tribunal issued the judgement, the proceedings should have been discontinued due to the issuance of a substantive ruling being inadmissible where only the mother of the minor child enjoyed a final ruling on which depended the opportunity of an effective constitutional complaint, as well as in the light of the reference norms named in the application not pertaining to her rights and freedoms, whereas with respect to the other applicant – the final ruling which the mother of the minor child invoked did not violate her constitutional rights and freedoms adopted as reference norms, since Article 48(1) and Article 72(3) of the Constitution were on the rights and freedoms of the child.

II.

The nature of the rulings of the Constitutional Tribunal, as arises from Article 190(1) of the Constitution prejudges the binding force over all addressees without exception, and the said addressees should respect the rulings. The source of this obligation lies, among others, in the constitutional principles of the state of law (Article 2), legality (Article 7) and superiority of the Constitution as the basic law (Article 8(1)).

The judgment of the Constitutional Tribunal discussed has a defined negatory scope, causing the partial elimination of a threatened and actual payment order for the non-performance or improper performance of obligations arising from a contact arrangements ruling or settlement before the court or mediator where the said non-performance or improper performance of obligations is related to the behaviour of the child not caused by the person under whose custody the child is placed. Importantly, the circumstances of the present case allowed the Constitutional Tribunal – under Article 190(3) of the Constitution – to extend the effect of the provision deemed incompatible with the Constitution; however, it did not avail itself of this opportunity, meaning that the provision invoked – in the scope stated – lost its attribute of constitutionality with the date of its publication in the Polish Journal of Laws, i.e., 30 June 2020.

The Constitutional Tribunal's finding of unconstitutionality of Article 598^{16} § 1 in conjunction with Article 598^{15} § 1 of the Code of Civil Procedure resulted in amending the scope of application of this provision with respect to its text, as the norm impugned was ultimately eliminated from the legal system.

Here, it is worth noting that Article 598^{16} § 1 of the Code of Civil Procedure was already subjected to the test of constitutionality; in its decision of 5 September 2017 in the case Ts 175/16[6], the Constitutional Tribunal did not grant an appeal against the decision not to pursue a constitutional complaint and stated that the decisions issued under the said provision cannot lead to violations of constitutional rights and freedoms.

III.

In translating theoretical considerations to practical application, the ruling being the subject matter hereof – though right in principle and touching on the values of fundamental import for the best interest of the child – may serve as pretext for abuse, i.e., unauthorised references to the incompatibility of the provisions with the Constitution and the extension of proceedings aimed at postponing the enforcement of the ruling through skilful fact-manipulation.

The provisions on performing contacts were given their current wording in the Act of 26 May 2011 amending the Code of Civil Procedure[7]. Before the amendment, cases concerning the performance of contact arrangement decisions were governed by provisions on rendering non-pecuniary obligations[8]. In line with Article 1050 and Article 1051 of the Code of Civil Procedure, where a debtor fails to perform an action which another person cannot perform *in lieu* thereof, and the performance of which depends solely on the will thereof, the court with

[6] Postanowienie Trybunału Konstytucyjnego z 5 września 2017 r., OTK ZU B/2017, poz. 278.
[7] Ustawa o zmianie ustawy – Kodeks postępowania cywilnego z dnia 26 maja 2011 r. (Dz. U. z 2011 r. Nr 144, poz. 854).
[8] E. Holewińska-Łapińska, *Realizacja prawa do kontaktów z dziećmi (w świetle badania akt spraw postępowań wykonawczych)*, „Prawo w Działaniu" 2011, nr 10, s. 5 i n.

the jurisdiction over the supposed act, shall – at the request of the creditor and upon hearing the parties – set a performance deadline for the debtor and threaten a fine should they fail to perform the action within it, whereas it shall also impose a fine thereon should that deadline lapse ineffectively and shall set another deadline, the failure to honour which shall carry a more severe fine.

After the 2011 amendment, proceedings in cases on the performance of contacts lost its enforcement nature and, as a result of being placed within the framework of non-contentious jurisdiction, have become guardianship proceedings of a special type – fact-finding, restricted to the enforcement phase[9].

As a result of the ruling at hand, in the proceedings on performing contact arrangements, it will be necessary to examine whether the reason for the non-performance or improper performance of contacts is related to the behaviour of the child not caused by the person under whose custody the child is placed. The obligation to examine *ex officio* whether the non-performance or improper performance of the contacts by the person under whose custody the child is placed is caused in honouring the child's will concerns the proceedings to both threaten and issue a payment order[10]. This is something new and a departure from the rule that rulings – regardless of the procedure (enforcement or non contentious jurisdiction) – should be binding for both the enforcement authority as well as for parties to the proceedings.

Pursuant to Article 113[1] § 1 of the Act of 25 February 1964 – Family and Guardianship Code[11], the value which should be at the foundation of a substantive court ruling – should there be no agreement between the parents as to how contacts should be maintained with the minor child – is the child's best interest, whereas the court is obliged to account for the child's reasonable wishes. Therefore, the child's attitude should be examined at the fact-finding stage, both in the proceedings to determine contact arrangements, as well as in other proceedings of which the said attitude is a part (divorce or separation proceedings). Should the minor child change their attitude, this should be a reason for applying to amend the contact arrangements decision, and not an argument in favour of finding that the failure to perform contacts is justified. The purpose of the proceedings to threaten or issue a payment order for the non-performance or improper performance of contacts with a minor child is to guarantee that the manner in which the contacts should be performed, as determined by the court in the fact-finding proceedings, is observed. In this situation, obliging the court to examine circumstances related to accounting

[9] Uchwała Sądu Najwyższego z 22 maja 2013 r., III CZP 25/13, Lex nr 14000024.
[10] E. Marszałkowska-Krześ, *Komentarz do art. 59816,* [w:] *Kodeks postępowania cywilnego. Komentarz,* red. E. Marszałkowska-Krześ, I. Gil, wydanie 31, Legalis/el.
[11] Ustawa z dnia 25 lutego 1964 r. – Kodeks rodzinny i opiekuńczy (Dz. U. z 2020 r. poz. 1359, ze zm.).

for the will of the child and the influence thereon on the part of the parent under whose custody the child is placed goes beyond the scope and purpose of the regulation discussed[12].

Admittance of fact-finding elements to enforcement proceedings denies the efficiency thereof, thus compromising the best interest of the child accounted for in the contact arrangements decision[13]. This is because the inevitability of enforcement, understood as a temporal relationship of the ruling with the enforcement thereof, and the binding force of the decision at the stage of its enforcement, has been done away with.

An important aspect ensuring the effectiveness of enforcement proceedings is enforceability understood as the acceptance of the ruling by the parties. It is observed that accepted rulings are enforced to the greatest degree. Acceptance is, sometimes, a guarantee that the decision will be enforced; therefore, its manifestation in the concurrent respect for the best interest of the child and their reasonable wishes is an idea which should guide contact arrangements in fact-finding proceedings.

The ineffectiveness of enforcement proceedings notwithstanding, another risk which arises from the necessity to apply elements of contentious proceedings in proceedings to perform contact arrangements, as mandated by the ruling of the Constitutional Tribunal, is the option of there being two mutually exclusive rulings.

As already indicated, in the situation reviewed by the Tribunal, the parent who fails to perform or improperly performs contacts as a result of their child's behaviour which they have not caused may initiate proceedings to amend the contact arrangements decision (to amend, limit or even ban contacts with the child), which includes the option of submitting a request for security with which they would be able to change the scope and direction of enforcement proceedings. It is worth underlining that in the situation where security is granted in proceedings to amend a contact arrangements decision, the option of enforcing the prior decision is no longer pursuable and the proceedings in the enforcement case are subject to discontinuation.

The consequences of the ruling being the subject matter of this commentary are contrary to the idea guiding enforcement proceedings, allowing wiggle room causing time to pass, making it possible for the relationships to be changed, which would be a basis for separate proceedings.

Doctrine also underlines possibilities related to the specific nature of enforcement proceedings in the guardianship regime and the superior principle of the best interest of the child, finding

[12] E. Marszałkowska-Krześ, *Komentarz do art. 59816…*, Legalis/el.
[13] J. Ignaczewski, *Komentarz ogólny do spraw opiekuńczych na tle wykonywania władzy rodzicielskiej,* [w:] K*omentarz do spraw rodzinnych*, red. J. Ignaczewski, H. Ciepła, J. Ignaczewski, J. Skibińska-Adamowicz, Lexis Nexis, wydanie 1, 2012, s. 119-120.

that “where the principles of performing contacts are violated, the court should assess whether their further performance, in the manner previously determined, can be reconciled with the best interest of the child”[14], and should that assessment be negative – the court should *ex officio* initiate proceedings to amend contacts, which may be grounds for suspending enforcement proceedings until the former proceedings come to an end. It is deemed that in such a situation – even if the prerequisites to examine a request submitted under Article 598^{15} § 1 or 598^{16} § 1 of the Code of Civil Procedure were met – the proceedings would have to be discontinued considering the superiority of the principle of the best interest of the child over the principle of respect for the law.

Enforcement proceedings in contact cases are considered lengthy and ineffective due to their two-stage structure and the fact that each decision – to threaten and to issue a payment order – may be appealed against[15]. The ineffectiveness of the proceedings is, in turn, attested to by the fact that even if the payment order decision becomes final and non-appealable, this does not guarantee the proper performance of contact obligations.

The aforementioned ineffectiveness of enforcement proceedings in contact cases, as violating the right to a fair trial grounded in Article 45(1) of the Polish Constitution and Article 6 of the Convention on the Protection of Human Rights and Fundamental Freedoms[16], is alleged against Polish courts in applications before the European Court of Human Rights (ECHR) in relation to the excessively lengthy and ineffective proceedings. In the light of the case-law of ECHR, the principle of respect for the family life expressed in Article 8 of the Convention, too, should be assessed from the angle of protecting constitutional rights and freedoms.

So far, the question examined was solely whether the person under whose custody the child is placed correctly performed contact arrangements and whether the non-performance or improper performance thereof was by fault of that person. However the provisions might not constitute fault as a prerequisite for threatening or issuing a payment order, the circumstances in which the obligations are violated, their type, and the intention of the violating party are to be assessed by the court reviewing the request. Even though Article 514 § 1 of the Code of Civil Procedure does not oblige the court to hold a session or hear the parties to the proceedings, due to the specific nature of the proceedings, courts do hear the parties or accept their written submissions. So far, the practice did not involve hearing the minor child in

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[14] Z. Strus, M. Strus-Wołos, Komentarz do art. 598 (15), [w:] *Kodeks postępowania cywilnego. Komentarz. Tom III. Art. 506-729*, red. T. Wiśniewski, Warszawa 2021

[15] *A. Patryk*, Komentarz do art. 598 (15), [w:] *Kodeks postępowania cywilnego. Postępowanie nieprocesowe. Postępowanie w razie zaginięcia lub zniszczenia akt. Postępowanie zabezpieczające. Komentarz,* red. O.M. Piaskowska, Warszawa 2022.

[16] Konwencja o ochronie praw człowieka i podstawowych wolności sporządzona w Rzymie dnia 4 listopada 1950 r., zmieniona następnie Protokołami nr 3, 5 i 8 oraz uzupełniona Protokołem nr 2 (Dz. U. z 1993 r. Nr 61, poz. 284), dalej: Konwencja.

proceedings regarding the performance of contacts; this was done in fact-finding contact arrangement proceedings[17].

The necessity of hearing a minor child or admitting expert evidence to determine whether the non-performance or improper performance of contacts is due to the will of the child, not caused by the parent under whose custody they are placed, will significantly prolong the proceedings, already accused of being excessively lengthy and ineffective. It is worth noting that, in order to determine whether the non-performance or improper performance of contacts is related to the behaviour of the child as not caused by the person under whose custody the child is placed, the hearing of the minor child might not suffice, as the assessment whether the minor child is under the influence of the parent often requires special information. The examination of a minor child by a team of court experts will undoubtedly extend the proceedings, and there is no way to rule out that a parent exercising custody may invoke the need to readmit such evidence at each subsequent proceedings to perform contacts.

There is real concern that the ruling at hand will be an opportunity for numerous abuses on the part of parents who influence or at least reinforce the will of the child – if not to avoid sanctions for the non-performance or improper performance of contacts, then just to further postpone the sanction. As a negative impact, it is expected that the ruling will effectively make it impossible to reach the objective of the proceedings: performance of contacts with the child, and the more the parent lacks contact with the child, the less tight the relationship between them will likely be.

The requirement to review whether the non-performance or improper performance of contacts is related to the behaviour of the child not caused by the person under whose custody the child is placed will directly translate to the efficiency with which family and guardianship courts hear other cases within their jurisdiction.

There is a risk that, in many cases, as a consequence of applying the ruling at hand (against the intention of its authors), the child with whom contacts should be honoured will not have their emotional needs satisfied – especially the need to ensure undisturbed contact with each parent and the ability to derive model behaviour from each parent.

Indubitably, the judgment in which the Constitutional Tribunal found provisions governing the performance of contacts with a minor child to be, within a certain scope, unconstitutional, made the courts adjudicating in such cases more sensitive to the will of the minor child themselves. Another positive effect of this judgment is the ability to avoid financial sanctions by parents who are in the foreground when it comes to providing care for the child, where the other parent – once the contact arrangements decision becomes final and non-appealable – would abuse

[17] A. Pośpiech, *Kontakty z osobą małoletnią i egzekucja kontaktów w praktyce sędziego*, Lex/el. 2019.

the right to contact and efficiently discourage the child from contacts, for example for financial reasons.

However, these advantages of the ruling at hand can hardly be claimed to balance the many undesired effects. These involve, in particular: lower effectiveness in reaching objectives of enforcement proceedings, or even inability to do so, the risk that the proceedings to perform contacts will be significantly prolonged (indirectly affecting the efficiency with which courts examining contact performance hear other cases), the risk of mutually exclusive rulings, and room for significant abuse which would lead to a party evading unfavourable resolutions; all of these effects lead to an unambiguously critical assessment of the ruling.

IV.

The judgment of the Constitutional Tribunal became a stimulus for a renewed discussion on the need for systemic reforms of provisions governing the performance of contacts. Deficiencies of applicable regulations have been observed long beforehand, as expressed, for example, in the governmental bill amending the Family and Guardianship Code and certain other acts[18], which would, among other things, introduce a new type of offence in Article 209a of the Act of 6 June 1997 – Criminal Code[19], penalising parties evading the performance of a contact arrangements decision or settlement. The explanatory statement observed that the faults in the applicable provisions led in certain situations to inefficiencies which contributed to the relationships between the child and the parent entitled to contacts – with whom the child does not reside permanently – being broken, and this indubitably is to the detriment of the best interest of the child.

Apart from allowing those who persistently evade their contact obligations to be held criminally liable, which would be a significant supplementation to applicable legal regulations, a series of other solutions is demanded, such as removal of Article 598[20] of the Code of Civil Procedure, under which the court shall discontinue proceedings if, within six months from the last decision becoming final and non-appealable, no further application concerning the performance of contacts is filed. One observes this provision allows abuse; the parent who impedes the performance of contacts – aware of the effects of this provision – may refrain from improper behaviour for half a year, just so that they may cease properly performing contacts once the proceedings are discontinued[20].

[18] Projekt ustawy o zmianie ustawy – Kodeks rodzinny i opiekuńczy oraz niektórych innych ustaw, druk nr 3254, Sejm VIII kadencji.
[19] Ustawa z dnia 6 czerwca 1997 r. – Kodeks karny (Dz. U. z 2022 r. poz. 1138, ze zm.).
[20] R. Wąworek, *Utrudnianie kontaktów z dzieckiem – rozwiązania prawne i praktyka w Polsce i w Europie oraz postulaty de lege ferenda,* LEX/el. 2016.

One also notes that introducing a deadline (even if an instructional one) to review the request to threaten or issue a payment order could make the proceedings in such cases more efficient[21]. A similar positive assessment would be given to classifying contact performance cases as urgent, a classification referred to in § 2(5) of the Internal Court Regulations[22].

[21] A. Łazarska, *Efektywne wykonywanie orzeczenia dotyczącego prawa do kontaktów z dzieckiem w świetle standardów strasburskich,* PPE 2020, nr 11.
[22] Rozporządzenie Ministra Sprawiedliwości z dnia 18 czerwca 2019 r. – Regulamin urzędowania sądów powszechnych (Dz. U. z 2022 r. poz. 2514).

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8. Wąworek R., *Utrudnianie kontaktów z dzieckiem – rozwiązania prawne i praktyka w Polsce i w Europie oraz postulaty de lege ferenda*, LEX/el. 2016.

Akty normatywne

1. Konstytucja Rzeczypospolitej Polskiej z dnia 2 kwietnia 1997 r. (Dz. U. Nr 78, poz. 483, ze zm.).
2. Konwencja o ochronie praw człowieka i podstawowych wolności sporządzona w Rzymie dnia 4 listopada 1950 r., zmieniona następnie Protokołami nr 3, 5 i 8 oraz uzupełniona Protokołem nr 2 (Dz. U. z 1993 r. Nr 61, poz. 284).
3. Ustawa z dnia 6 czerwca 1997 r. - Kodeks karny (Dz. U. z 2022 r. poz. 1138, ze zm.).
4. Ustawa z dnia 17 listopada 1964 r. - Kodeks postępowania cywilnego (Dz. U. z 2021 r. poz. 1805, ze zm.).
5. Ustawa o zmianie ustawy - Kodeks postępowania cywilnego z dnia 26 maja 2011 r. (Dz. U. z 2011 r. Nr 144, poz. 854).
6. Ustawa z dnia 25 lutego 1964 r. - Kodeks rodzinny i opiekuńczy (Dz. U. z 2020 r. poz. 1359, ze zm.).

7. Ustawa z dnia 30 listopada 2016 r. o organizacji i trybie postępowania przed Trybunałem Konstytucyjnym (Dz. U. z 2019 r. poz. 2393).
8. Rozporządzenie Ministra Sprawiedliwości z dnia 18 czerwca 2019 r. - Regulamin urzędowania sądów powszechnych (Dz. U. z 2022 r. poz. 2514).

Orzecznictwo

1. Wyrok Trybunału Konstytucyjnego z 22 czerwca 2022 r., SK 3/20 (Dz. U. z 2022 r. poz. 1371).
2. Uchwała Sądu Najwyższego z 22 maja 2013 r., III CZP 25/13, LEX nr 14000024.
3. Postanowienie Trybunału Konstytucyjnego z 5 września 2017 r., Ts 175/16 (OTK ZU B/2017, poz. 278).

Inne

1. Projekt ustawy o zmianie ustawy - Kodeks rodzinny i opiekuńczy oraz niektórych innych ustaw, druk nr 3254, Sejm VIII kadencji.