this approach does not correspond to some extent developed by the UN International Law Commission Draft Articles on Responsibility of States for internationally wrongful acts, which despite its formal legal requirement, is a codification of customary international law in international responsibility. Indeed, although Article 42 allows the project to call the state to account (the opportunity to «give a formal diplomatic claim or to prosecute against the state, which is responsible») for only State that is a victim of an internationally wrongful act, however, on the other hand, Article 48 provides for the right of any State other than the victim, to call to account the State infringer if violated obligation is an obligation of states and respect established to protect the collective interests of the group and it is these cases may have place within the framework of the Treaty on the FTA CIS, which was concluded in the interests of the Commonwealth.

The article also draws attention to the fact that the Treaty on the CIS free trade zone is not under the scope of the dispute settlement mechanisms provided for in Art. 19 on the debate about the interpretation of the provisions of the contract. Although, as a rule, in the agreements on free trade zone for all disputes are common mechanisms of their settlement.

Key words: agreement on free trade zone, the Treaty on the free trade zone CIS 2011, international legal responsibility, Draft Articles on Responsibility of States for internationally wrongful acts, the CIS Economic Court, the WTO dispute settlement.

УДК 347.340

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КОНЦЕПЦІЯ ПРАВОВОГО ЖИТТЯ ФРАНЦІШКА ЛОНГШАМПА ТА ДОСЛІДЖЕННЯ РИМСЬКОГО ПРАВА

The majority of professor Franciszek Longchamps' [1] works was devoted to the study of administrative law. His detailed works concerning themes related to contemporary law and modern-day legal thought [2] gave rise to reflections on the knowledge of law, initially scattered as loose fragments, but later worked out into a consistent framework. These comprised a work entitled «Problems in the Cognition of Law», published in 1968 by Wroclawskie Towarzystwo Naukowe (*Wroclaw Association of Science*) [3]. The author's excellent character as a researcher could be seen already in the foreword. In an optimistic but also realistic assessment, he wrote: 'two matters seem to form the subject of legal thought today, both in our country and abroad; these are: the basis for a sound knowledge of law and the value, which the law presents for the human being. The exchange of opinions and experience is greatly desirable in this respect. As regards definitive solutions, however, these might never be found, as the above-mentioned fundamental matters are involved in too great a number of complex and changeable systems. He goes on: «these reflections (…) may only suggest directions to be taken in order to seek such solutions».

The above reflections set directions for the author's research as well as pose questions which he pondered: what are the methods to obtain a sound knowledge of

law? how can such knowledge be placed in the context of values, which the law presents or may present for the human being? F. Longchamps presents the process of obtaining knowledge of law both as an intellectual construct and as a social mechanism, whereby these two ways to view the law should complement each other [4, c. 120].

The process of obtaining knowledge of the law, thus understood, led the author to propose a concept of legal life as an aspect of human culture, a product and ingredient of social coexistence [5]. The author conceives of legal life in as broad a way as possible, because the researcher's intuition – as he explained – allows him/her to sufficiently delineate the subject of research. In this context, the word «life» should be understood broadly: it should encompass actions, normative structure as well as science. In legal culture, normative structure is a particularly large ingredient, but still just that – an ingredient. The relation between the study of law and the law is presented as «probably the most interesting but also the most sensitive issue». The study of law is part of a larger whole, that is, legal culture. It is also part of a specific cultural period and cultural milieu. The paths which the study of law follows, the themes with which it concerns itself as well as the conclusions which it reaches are part of legal culture. This is itself part of legal life. Placed within that framework, the study of law reveals its full intellectual significance and role in society [5, c. 34–34].

Statements concerning knowledge of legal life may be inspiring to many researchers. Indeed, they propose a number of methodological postulates. The author supposes that classical problems in the law and study of law such as the sources of law, subjective right, legal relationships, legal personality, etc. may be studied, presented and understood properly only after they have been viewed collectively as problems related to social background, legal substance and doctrine. Therefore, it is necessary to step outside the bounds of one's own discipline of the study of law in a traditional sense and gain the much-desired outsider's look. Then, «a great wealth of legal culture is revealed; new light is thrown on the long-forgotten treasures of thought; a continuity in legal thought becomes visible, which has always existed despite – or rather thanks to – a constant movement in law» [6, c. 37–38].

According to F. Longchamps, researchers dealing with the history of the Roman law in Europe were the first to experience knowledge of legal life. Their research regards the Roman law as part of intellectual and social culture. Roman law experts use the notion of the experience of law, a constant movement back and forth between normativity, legal practice and reflections on law. Franciszek Longchamps makes another important postulate here, namely, to generalize and extend the research program, as conceived of here, to include modern-day law in order to affirm the continuity of legal culture, the continuum in which the present is only a conventional cut-off point [7].

F. Longchamps proposes certain ways, in which we can – despite the postulate to avoid delimitations – outline the subject of research more clearly. «On the surface», the subject (discipline of law) is to be delimited in relation to neighbouring disciplines. «On the surface» means setting limits conventionally for the research at hand. The choice is to be made by the researcher: usually, it is the subject, to which the norms apply, and the country. The researcher should reach inwards and upwards

without limitations. «Inwards» refers to social, demographic and economic realities. «Upwards» stands for the accrued body of intellectual reflection. We may research codified civil law in a given country, the law of a labour union or a political party – this is research «on the surface», which reveals numerous relations to neighbouring delimited disciplines. This should be accompanied by associated in-depth research «inwards» and «upwards».

The knowledge itselt of legal life, thus utilized, also constitutes a manifestation of legal life, and as such it is part of legal culture. This concept of knowledge of legal culture will allow a fuller, more broadly-conceived cognition, which will place problems and tasks related to legal life in a sharper light. According to F. Longchamps, certain shortcomings exist in the modern-day study of law, due to the fact that it must produce ad hoc solutions through interpretation, systematization, didactics and everyday tasks.

The question remains: what position should the study of legal life take in relation to the issue of value in the law? Should it only overview our search for value in the law or should it involve itself in such a search? According to F. Longchamps, the study of legal life – if it develops – should examine various values recognized in the law, the study of law, or both. It will, above all, determine and explain the reasons for and consequences of the adoption, application and breach of values as well as the ways, in which different societies handle them. As a result, the study of law may offer a range of values to choose from and so to serve a utilitarian purpose in society.

It is also noteworthy that F. Longchamps' praise of Roman law research is not uncritical. It only applies to that part of it, which dealt with the presentation of the Roman legal thought and its history in later times all the way to this day. The presentation itself of the Roman legal thought – in keeping with the «upward» and «inward» postulate – should consider the fact that the Roman legal thought had frequently been burdened with inconsistencies, controversy and alterations, which later came to be accepted as the norm. The principles later adopted as «Roman» in Rome itself did not stand the test of time in certain situations. Sometimes, one set of values would prevail over another, thus creating the cycle of legal life. It is up to the researchers, however, to deal with the still incomplete task of explaining how the Roman experience of legal life influenced later epochs and still influences, or may do so, on legal life today.

Список використаних джерел

1. *Franciszek* Longchamps de Bérier, born September 9, 1912 in Lvov, died May 19,1969 in Wroclaw – Polish lawyer, expert on administrative law.

2. *To name* but a few monographs: *Ograniczenia własności w polskim prawie administracyjnym* [Limits on property in the Polish administrative law], Lvov 1938; *Prawo agrarne* [Agrarian Law], Warsaw 1949, *Założenia nauki administracji* [Assumptions related to the study of administration] Wrocław 1949, *Współczesne kierunki w nauce prawa administracyjnego na Zachodzie Europy* [Contemporary research directions in the study of administrative law in Western Europe], Wrocław 1968.

3. *Longchamps F.*, *Z problemów poznania prawa* [Problems in the Cognition of Law], Wrocław 1968.

The author divides the research study on «deep» (including externalities) and «inside» (taking into account internal reflection worldview) parts. The author concludes that the only comprehensive study of Roman law could lead to an modern legal reality understanding.

Key words: the Roman law, Franciszek Longchamps, legal reality concept.

УДК 341.162

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здобувач

ОРГАНІЗАЦІЙНІ ТА ПРОЦЕДУРНІ РАМКИ ПРАВОТВОРЧОЇ ДІЯЛЬНОСТІ МІЖНАРОДНОЇ МОРСЬКОЇ ОРГАНІЗАЦІЇ (ІМО)

Міжнародна морська організація (International Maritime Organization, IMO), спеціалізований орган ООН, створений відповідно до Конвенції про Міжурядову морську консультативну організацію, прийняту в Женеві 06 березня 1948 р. До основних завдань ІМО належить забезпечення механізму взаємодії між державами у ході ухвалення ними рішень і провадження регуляторної діяльності у технічній сфері, що охоплює міжнародні морські перевезення; сприяння та полегшення прийняття універсальних стандартів, які стосуються безпеки на морі, ефективності судноплавства, захисту морського середовища, вирішенню юридичних і адміністративних питань, пов'язаних з міжнародним судноплавством; сприяння реалізації програм технічного співробітництва у сфері міжнародного торговельного судноплавства, боротьби з забрудненням морського середовища.

Визначальними мотивами членства в ІМО є можливість участі у правотворчій діяльності Організації, оскільки вплив інструментів ІМО на міжнародно-правові умови діяльності морегосподарчого комплексу будь-якої держави, є незаперечним і значним. Водночас, різноманіття рішень, що приймаються у рамках ІМО, зумовлює складнощі, пов'язані з участю фахівців України у нормотворчій діяльності Організації. Чітке розуміння організаційно-правових рамок правотворчої діяльності ІМО має принципове значення як для підготовки фахівців до участі у роботі ІМО, так і для належної імплементації у національне законодавство рішень цієї Організації.

Актуальність дослідження правотворчої діяльності ІМО зумовлена недостатнім рівнем висвітлення цього питання у фундаментальних працях. У роботах провідних українських дослідників у галузі міжнародного морського права (Г. Анцелевич, О. Шемякін [1, с. 143–145]) питання правотворчості ІМО і рішень, які приймаються в рамках цієї Організації, розглядаються через призму висвітлення всього масиву міжнародно-правових інструментів, розроблених в рамках ІМО. Окремі аспекти правотворчості Організації присутні у роботах О. Шемякіна [2, с. 69–72], в той час, як інші вітчизняні та закордонні дослідники (Р. Огірко, Т. Нешатаєва [3, с. 59–66]) розглядають рішення міжнародних організацій в цілому. Серед іноземних авторів можна назвати працю

4. *Longchamps F.*, *Z problemów*... [Problems in the Cognition of Law] p. 1 and following: Ideas which seem to underlie many of the author's works are 'care for sympathy in interpersonal relations, realism arising out of an understanding of all that is human and completing legal rules with moral bonds', J. Starościak, *Franciszek Longchamps 1912 – 1969*, Państwo i Prawo, issue 7, 1969. – P. 120.

5. *Longchamps F.*, *Z problemów*...[Problems in the Cognition of Law], p. 30 and following.

6. *Longchamps F.*, *Z problemów*...[Problems in the Cognition of Law]. – P. 37–38.

7. *Idem*, s. 38. Giaro T. and Longchamps F. de Berier in an introduction to the second edition of professor H. Kupiszewski's 'Roman law and modern times' mention the words of the Roman and civil law expert Stanisław Wróblewski, quoted by his student Henryk Kupiszewski, that the task of Roman law studies will be complete after we examine, in a continuous manner, all the links between the ancient and modern-day law; cf. H. Kupiszewski, *Prawo rzymskie a współczesność* [Roman Law and Modern Times]^2, Cracow 2013. – P. 8–9. This task is being carried on by successive generations. The textbook on the Roman law by Wojciech Dajczak, Tomasz Giaro and Franciszek Longchamps de Berier (Franciszek Longchamps' grandson), entitled 'Roman Law. Basics of Private Law', Warsaw 2009 presents the Roman Law as a heritage of legal thought, visualizing the values and principles of private law on the basis of Roman norms and Roman law traditions from the Middle Ages to our time.

***Бартош Шольц-Нартовскі* (Польща). Концепція правового життя Франціška Лонгшампа та дослідження римського права**

У статті автор приділяє увагу концепції правової реальності відомого польського юриста Франціška Лонгшампа. Розглядається означена концепція через призму римського права, а також наукових підходів до вивчення правової реальності.

Автор поділяє дослідження на вивчення «вглиб» (ураховуючи зовнішні чинники) та «всередину» (із урахуванням внутрішньої рефлексії світосприйняття), при цьому доходить висновку, що лише всестороннє вивчення римського права може призвести до розуміння його впливу на правову реальність у сучасному світі.

Ключові слова: римське право, Франціšек Лонгшамп, концепція правового життя.

***Бартош Шольц-Нартовски* (Польша). Концепция правовой жизни Франциška Лонгшампа и исследования римского права**

В научной работе автор уделяет внимание концепции правовой реальности известного польского ученого Франциška Лонгшампа. Рассматривается данная концепция сквозь призму римского права, а также научных подходов к изучению правовой реальности.

Автор разделяет исследование «в глубину» (учитывая внешние факторы) и «во внутрь» (с учетом внутренней рефлексии мировоззрения), при этом приходит к выводу, что только всестороннее изучение римского права может привести к пониманию его влияния на правовую реальность в современном мире.

Ключевые слова: римское право, Франциšек Лонгшамп, концепция правовой жизни.

***Bartosz Szolc-Nartowski, PhD, Adjunct Lecturer at the Department of Civil Law, University of Gdańsk, Faculty of Law and Administration.* FRANCISZEK LONGCHAMPS' CONCEPT OF LEGAL LIFE AND RESEARCH ON THE ROMAN LAW**

Author focuses on the Franciszek Longchamps of legal reality concept known. Study of legal reality is considered in the light of the Roman law concept and modern research approaches.