

**BETWEEN APRIORISTIC AND TRANSCENDENTAL
FOUNDATIONS OF LEGAL INSTITUTIONS:
PROFESSOR TOMASZ BEKRYCHT AND HIS INTERPRETATION
OF THE PHILOSOPHICAL FOUNDATIONS OF LAW
(INTRODUCTION)**

On March 11, 2021, a professor at the University of Lodz, habilitated PhD Tomasz Bekrycht, Vice-Dean of the Faculty of Law and Administration, a highly respected theoretician and philosopher of law, an outstanding artist and humanist, known not only in Poland, but also abroad, unexpectedly passed away.

Professor Tomasz Bekrycht was an extraordinary man with wide-ranging interests and numerous talents. One of the images that will remain in our memory will probably be the one when, after long and intense discussions on the philosophy of law, he sometimes reached for the trumpet, which he also played professionally for a long time. It is worth recalling that he was an outstanding virtuoso for eight years (1990–1998), employed as an orchestral musician (major trumpet) at the Musical Theatre in Łódź. Remaining sensitive to beauty, he also devoted his professional life to exploring the mystery of good, devoting himself more and more to the philosophy of law and ethics. The beginning of his research interests should be associated with the Kantian philosophy of law, which became the subject of his M.A. thesis entitled *The Liberal Concept of Law in Kant's Philosophy*, prepared under the supervision of Professor Mark Zirk-Sadowski. This work focused on presenting the Kantian philosophy of state and law from the perspective of the theory of knowledge and the science of morality, illustrating the thesis that the guiding concept of the Kantian philosophy of law is the idea of freedom secured by creating legal guarantees limiting arbitrary coercion. The particular subject of interest of Professor Bekrycht involved the relationship between external freedom and positive law, realised in the vision of the rule of law, realised today as a legal order modelled on the deductive system.

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Considerations devoted to this issue provided a permanent background for this author's later publications, starting with the article by I. Kant, "Die Kritik der Konzeption des Naturrechts", through a series of publications on human rights and the relationship of law and morality (Bekrycht 2004; 2009a; 2014; 2016; 2019), and ending with a monograph on the transcendental foundations of law, which was Bekrycht's habilitation dissertation (Bekrycht 2015). The aim of this last work, which was to some extent the culmination of earlier considerations on the transcendental foundations of law, was to present the phenomenon of positive law in relation to metaphysical and ontological justification. Thus, this work focused on the issue of the conditions for the possibility of the existence of law. Professor Bekrycht put forward the thesis that the conceptual elusiveness of positive law is based on the contradiction between the idea of freedom and the idea of necessity, and he also noticed that freedom provides us with a choice, and life provides the possibility of implementing this choice at the cost of self-limitation. Consequently, the phenomenon of positive law is revealed – according to Professor Bekrycht, it is a synthesis of that which cannot be reconciled: the idea of freedom on the one hand and necessity on the other. The second, extremely important stream of research by Professor Bekrycht was the phenomenology of law, and in particular the analysis of the philosophical and legal views of Adolf Reinach. He had devoted his doctoral dissertation to these issues, which was the first comprehensive study of Reinach's philosophy of law in Polish literature (Bekrycht 2009b). This work presented in a comprehensive and, at the same time, extremely insightful way issues at the junction of phenomenology and linguistic philosophy. Aprioric foundations of civil law as perceived by Professor Bekrycht is a research project aimed at reconstructing the theory of speech acts and its application to the analysis of problems in the field of dogmatic analysis of civil law on the one hand and interpersonal communication on the other. This work also deals with the problem of the relationship between the *a priori* foundations of law and positive law, in some way also anticipating the later findings contained in the habilitation thesis devoted to the transcendental philosophy of law. Certainly, the outstanding achievement of Professor Bekrycht is the Polish translation of Adolf Reinach's *Die apriorischen Grundlagen des bürgerlichen Rechtes* (2009).

Professor Tomasz Bekrycht also left behind publications devoted to logic, issues of legal methodology, and constitutional and tax law. Professor Bekrycht was the author of numerous works in the field of methodology of legal sciences, the ontology and epistemology of law, as well as semiotics and logical pragmatics. Certainly, however, a special area of his interest and intellectual activity was the phenomenology of law. He was a courageous researcher who did not hesitate to present in a new way the most difficult problems of the analytical philosophy of law. The achievements of Professor T. Bekrycht should be considered as very extensive; in total, they include 29 works of a very serious nature and over 24 articles, published to a large extent in foreign languages in reputable

international publishing houses, such as Brill, Wolters Kluwer, C.H. Beck, Ashgate, or P. Lang. Professor Bekrycht's scientific activity manifested in very active participations in international and domestic scientific events, during which he became known as an interesting speaker and an excellent discussant.

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