

# **Models of Legal Regulation of Risk in the Light of the Theory of Reflexivity**

## **1. Research Project Objectives**

The aim of the project is to reconstruct alternative models of legal regulation of risk and to expose their theoretical foundations. The research will focus on such normative models which reflect relevant differences among existing practical strategies of risk regulation. In order to explain those differences we expose diverging premises on which the alternative strategies are grounded. In other words, the task of the project is to clarify linkages between fundamental theoretical assumptions and practical strategies of the legal regulation of risk. By doing this, we are not aiming to recommend one of alternative models over others, but to explicate intellectual horizons in which these models are built.

A theoretical framework of the project is provided by the sociological theory of reflexivity of modernity (Beck et al. 1994)<sup>1</sup>. This choice is justified by close bonds between the very concept of risk and the selected theory. Taking the concept of risk as a starting point, we may notice that the reflexivity is a basic methodological principle of dealing with risk (cf. Luhmann 1993; Lupton 1999; Arnoldi 2009). Therefore, political and legal institutions which are meant to manage risk are usually organized reflexively.

The concept of reflexivity is interpreted here sociologically, as a modus of social acting and an organizational logic of political and legal institutions. Following Giddens, it can be tentatively defined as “the regularized use of knowledge about circumstances of social life as a constitutive element in its organization and transformation” (Giddens 1991, p. 20). As this definition reveals, the problem of reflexivity contains two key components, namely a reflexive cognition (“use of knowledge”, learning), and a reflexive acting (“transformation of social life”). This holds true for the reflexivity interpreted both as individual’s quality and as a feature of social institutions or organizations. This is the latter case in which the proposed research is interested.

Notably, one may find a parallel distinction between knowing and acting in the context of risk regulation, as expressed in concepts of risk assessment and risk management. One can thus assume that an effective risk regulation requires both types of reflexivity: on the level of assessing (defining) a risk and on the level of its management. These correlations may be presented as follows:

---

<sup>1</sup> For the sake of clarity, we do not use here the distinction between terms ‘reflexivity’ and ‘reflectivity’; by the same token, we recognize a general link between concepts of reflexivity and reflection. Similarly, we consistently use the term ‘reflexivity of modernity’, which should be treated as embracing such closely related concepts as reflexive modernization and/or institutional reflexivity.

<b>Components of the concept of reflexivity</b>	Reflexive cognition	Reflexive acting
<b>Aspects of risk regulation</b>	Risk assessment	Risk management

*Ill. 1. Relations between components of the concept of reflexivity and aspects of risk regulation.*

As the above correlations suggest, the theory of reflexivity seems to offer a plausible research perspective to analyse problems of the legal regulation of risk. The employment of this theory allows to propose following research hypotheses:

A) The basic hypothesis claims that the existing practical strategies of the legal regulation of risk may be classified according to two basic criteria, that is: *methods of risk assessment* and *methods of risk management*. These criteria reflect two aspects of social reflexivity, which are *reflexive cognition* and *reflexive acting* in institutions. For each of these criteria the alternative normative models of risk regulation may be distinguished. As regards the issue of risk assessment, these are a self-referential model and a dialogical model; as for the issue of risk management, these are models of global risk regulation or of local risk regulation. Reconstruction of these models will be supported by analysis of empirical examples from legal practice.

B) The first of the aforementioned criteria – of *the method of risk assessment within legal institutions* – allows to draw a distinction between a *self-referential model* and a *dialogical model*. The respective regulatory strategies are also occasionally termed as ‘expert-based’ and ‘deliberative’. The former assumes that a risk may be defined using an expert knowledge, in a technical language being an internal idiom of a particular institution (e.g. a language of economy, epidemiology, engineering, etc.). The latter raise from a conviction that a proper definition of risk should include its social perception (‘social rationality’), hence it requires a multidimensional social dialogue with diverse groups of interest and stakeholders.

We put forward a hypothesis that the above opposition is closely related to the philosophical controversy on a proper understanding of the phenomenon of reflexive cognition. On its deepest level, the controversy distinguishes between two alternative interpretations of this problem, offered by René Descartes and Georg Wilhelm Friedrich Hegel. The former was the main author of the idea of reflection as an inward, self-referential cognition (the concept of *Ego cogito*), while the latter perceived

the reflection as inherently mediated by this what is external from a subject of cognition – hence as requiring that the subject be involved in a *sui generis* dialogue (the concept of *Vermittlung*).

Furthermore, these alternative philosophical interpretations are reflected not only by the normative models of risk assessment, but also by existing theories of law's reflexivity within the contemporary sociology of law. As we will demonstrate, the self-referential perspective may be found in a Günther Teubner's theory of reflexive law (Teubner 1993), while the dialogical perspective conforms with a theory of responsive law of Philippe Nonet and Philip Selznick (Nonet, Selznick 1978). Hence, we may observe a surprising coherency of the all three levels: normative models, socio-legal theories and philosophical assumptions.

C) The second criterion – of *the method of risk management in law* – relates to a question on what level a regulatory intervention should be performed in order to make the risk management well-targeted and effective? We distinguish two models of such an intervention: *the model of global regulation* and *the model of local regulation*. The former model gives a primacy to comprehensive, structural regulation of the problem, with a wide range of impact and performed in an *up–bottom* mode. Frequently that also means that a regulatory intervention should be performed on the supranational level. The alternative model, of local regulation, stresses advantages of limited and partial regulations, performed in a *bottom–up* mode and/or leaving a space for initiative of individuals and small social groups.

The hypothesis put forth here claims that the above opposition reflects another theoretical controversy, known in a social theory as '*the agency – structure dilemma*' (Walsh 1998; Reed 2003). Briefly speaking, the dilemma consists in a debate about determining factors in constructing a social order: are these social structures (which defines strict constraints for individual choices and actions), or are these actions of individual agents (which create wider social structures in consequence). In other words, this is a debate about a logical and/or genetical primacy of one aspect of the social reality over another. The standpoint giving a primacy to the structure is said to be typical of such theoretical perspectives as structuralism, functionalism, and classical Marxism. The alternate viewpoint, giving a primacy to the agency, may be found e.g. in interactionism and ethnomethodology.

Needless to say, that any one-sided solutions of the structure – agency dilemma should be treated as oversimplification. The social theory of the day accepts by principle the existence of mutual interrelations between both aspects of social reality. Nevertheless, even in contemporary theoretical perspectives, which recognize such mutual interdependencies, we can usually observe a methodological preference for a research focused on one of the factors – either structure or agency.

The reflects of the above dilemma may be found also in the sociological theory of reflexivity, what is particularly vivid in dissimilarities between two interpretations of the concept of reflexive modernity, as proposed by Ulrich Beck and Anthony Giddens. Undoubtedly both authors belong to the elite group of the most influential contemporary sociologists. What is more important, they both developed closely related theories of the reflexivity of modernity. Similarities of these standpoints (often treated as one common position) offer a convenient context for their comparison and allow to highlight these points in which they are *dissimilar*. As we will demonstrate, such differences refer mainly to the problem of relations between agency and structure. This is Beck who adopts more ‘structuralist’ viewpoint, whereas Giddens – within his own theory of “structuration” – is more prone to stress the role of individual agents and their actions (see Beck 1999, 2007; Giddens 1984, 1991).

Notably, the above differences between Beck’s and Giddenss theoretical standpoints find their continuation in diverging views on a social change and in alternative legal–political programmes of risk management. More on this in the section 3 “Research Plan”.

## 2. Significance of the Project

The issues examined in the project possess a vital practical relevance; at the same time they have been poorly analysed in legal science both in Poland and abroad thus far.

As for the practical relevance of the project, the methods of risk regulation and risk management in law are becoming ever more influential in contemporary legal thought and legal practice – regarding both law-making and law-applying. This tendency is reflected, among others, by the number of academic journals devoted exclusively to these issues<sup>2</sup>. Adoption of the techniques of risk management in legislative and regulatory policies is observed world-wide, and is perceived as a separate and full-fledged perspective in regulation: the so called “risk-based regulation” (Black 2010). It apparently dominates in legislative polices of the majority of nation states; in Poland it has been reflected, among others, in the governmental regulatory policy programme *Lepsze Regulacje 2015*. The risk-based approach to regulation and legislation is supported by such international organizations as the European Union (cf. the European Commission’s programme *Better Regulation* or *Smart Regulation*) and the Organization of Economic Cooperation and Development (cf. OECD’s programmes *Regulatory Policy* and *Regulatory Reform in Europe*). Also in the realm of law application and enforcement, the risk management techniques are employed in such fields as e.g. health care, criminology, or social policy.

In all these spheres, risk-based regulation is widely employed, yet it is not free of controversies. Pivotal debates treat about questions already mentioned here: how to reliably define and assess the risk

---

<sup>2</sup> See three such titles: *European Journal of Risk Regulation*; *Risk & Regulation Magazine*; *Risk, Regulation, & Policy eJournal*.

(the expert-based, self-referential strategy vs. the deliberative, dialogical one) and how to decide a proper range and level of risk regulation (the comprehensive and global regulation vs. the partial and local one). Thus, the thorough analysis of the aforementioned models is of great practical weight.

As regards the state of the arts in this field, we should distinguish between the situation of the legal science in Poland and abroad. In the Polish context, the problems of risk regulation have been treated merely from technical and pragmatic perspective until now. The existing research is constraint to technicalities of proper risk assessment and its efficient management. Such research is usually conducted within the framework of tacitly and implicitly accepted convictions about the ‘real’ nature of risk. In consequence, what is not examined is theoretical foundations of the strategies adopted in practice, neither political implications of those strategies. There is a lack of the research which would analyse the problem of risk regulation within a wider, sociological or philosophical horizon, let alone the perspective offered by the theory of reflexivity. The proposed project is supposed to fill this gap.

The situation in the world socio-legal studies is different. Also here the technico-pragmatic approach to risk is dominating, yet at least from the nineties of the previous century one may notice a presence of more sociologically oriented treatment of the problem (see Lupton 1999). This has been developed not only by representatives of sociology *sensu stricto* (Beck, Luhmann), but also by anthropologists (Mary Douglas), and political philosophers (Michel Foucault’s descendants). The problem of risk was also examined from the perspective of the theory of reflexivity, what resulted in “the risk society” thesis (Beck, Giddens). This account has been also adapted to legal science (Culpitt, O’Malley, Kemshall). The above notwithstanding, one can notice the lack of such studies which examine the problem being central for the proposed project. In other words, theoretical contributions existing thus far do not analyse how alternative models of risk regulation are anchored in diverging interpretations of the idea of reflexivity (cf. Pichlak, *forthcoming*). As far as we know, the proposed project will offer the first results of this kind in the world.

### **3. Research Plan**

The research will be conducted on three complementary layers: normative (analysis of selected risk-based regulatory policies), sociological (theories from the domains of sociology of law and sociology of politics), and philosophical (fundamental tenets regarding the concept of reflexivity: reflexive cognition and acting).

On each of these layers, two key research problems of the whole project will be examined: the problem of reflexive cognition, resp. risk assessment, and the problem of reflexive acting, resp. risk management. Basic interrelations between the three layers of the research may be schematically presented as follows:

THE PROBLEM OF RISK ASSESSMENT		
<b>Normative models</b>	Self-referential model	Dialogical model
<b>Sociological theories</b>	Reflexive law (autopoietic law)	Responsive law
<b>Philosophical interpretation of reflexive cognition</b>	Cartesian perspective; Self-reference	Hegelian perspective; Mediation

*Ill. 2. Research layers of the problem of risk assessment*

THE PROBLEM OF RISK MANAGEMENT		
<b>Normative models</b>	Model of global regulation	Model of local regulation
<b>Sociological theories</b>	The world risk society theory (U. Beck)	Theory of reflexivity of modern institutions (A. Giddens)
<b>Philosophical interpretation of acting in the social world</b>	Perspective of structuralism	Perspective of agency

*Ill. 3 Research layers of the problem of risk management*

On the *normative level*, the project will reconstruct the aforementioned models of risk assessment and risk management, and bring forward their representations in particular regulatory policies. The selected examples will include attempts to regulate those types of risk which are regarded as the most specific for the present age; this include e.g. the climate risk, the bioengineering risk, the risk connected with functioning of the global financial system, or the risk of terrorism (cf. Beck 2007).

On the *sociological level*, the project will scrutinize those theories of sociology of law and sociology of politics which may be associated with the models defined on the normative level. Such theories may be perceived as a theoretical interpretation (explication) of intellectual premises of the analysed models.

On the *philosophical level*, the project will discuss the foundational tenets of each of the normative models of legal regulation of risk. As we will demonstrate, such tenets may be found within various philosophical interpretations of the problems of reflexive cognition and reflexive acting.

The results of preliminary research allow for an initial selection and concretization of the points of interest for each of the two central research problems:

### **A) The problem of risk assessment**

#### *i) Normative layer*

In the project we distinguish two models of risk assessment in law: self-referential and dialogical. The former set forth an image of risk assessment as a process based on expert knowledge, defined in a technical language distinctive for a particular institution. The latter brings an image of the same process as politically loaded, where various political interests, axiological beliefs, and forms of rationality are at stake. Hence, the whole process should be inclusive and open for a multidimensional social dialogue with diverse groups of interest and stakeholders.

The above models may be illustrated by alternative existing strategies of defining the risk connected with a production and a consumption of genetically modified food (so called GMO). We may observe here in practice how the opposite models co-exist simultaneously in the political context and how they struggle against each other (Paskalev 2012; Weimer 2014; Weimer, Pisani 2016). Even within the political framework of one organization, such as the European Union, we may notice that some agencies adopt more expert-based (self-referential) approach, while others orient themselves toward more deliberative and socially inclusive (dialogical) policies. Therefore, the example of GMO regulatory policies may be employed in order to clarify and to ground empirically both above models.

#### *ii) Sociological layer*

On this level we shall analyse selected socio-legal theories. Theories are chosen due to their wide academic impact and their links to the models distinguished on the normative level of the study. The research is focused mainly on two interpretations of the epistemic reflexivity of law: the Günther Teubner's theory of reflexive law (Teubner 1993) and the Nonet's and Selznick's theory of responsive law (Nonet, Selznick 1978). The former is rooted first and foremost in the theory of autopoietic systems and may be related to the self-referential model of risk assessment. The latter refers to an original sociological theory of institutions proposed by Selznick, as well as to political ideals of communitarianism; as we will demonstrate, it may be also related to the dialogical model of defining risk.

### *iii) Philosophical layer*

As we have already mentioned, on the philosophical level the research shall focus on the alternative interpretations of the problem of reflexive cognition, as developed in philosophical doctrines of Descartes and Hegel. Historically speaking, these two authors are commonly regarded as responsible for, in a sense, ‘opening’ and ‘fulfilment’ of the so called philosophy of reflection. Descartes, with his interest for criteria and a method of certainty in cognition, opens up the new type of philosophical problem, thus establishing the new tradition. Hegel’s ‘fulfilment’ of this tradition means, among others, an *ontologization* of the problem of reflection: reflection is not merely an individual’s ability any more, but indeed a quality of the reality. This step is also decisive for a ‘discovery’ of the concept of reflexivity in social science, as an attribute of social institutions – what is the central problem of the present project.

At the same time, Descartes’ and Hegel’s ideas of reflexive cognition differ radically from each other. Briefly speaking, for Descartes reflection is a self-referential direction of consciousness inward, to a directness and a certainty of *Ego cogito* (Descartes 1986). For Hegel, on another hand, reflections inevitably assumes that a consciousness transcends itself, being directed outward and mediated by something external. In this view, an idea of a radical autonomy of the subject of cognition is fictitious; the subject is constituted not only by its own cognitive activity, but also by something external from itself. The process of cognition is dialectical or, to put it in other words, dialogical (Hegel 2003; see also Siemek 2011). These dissimilarities will be exposed in the research.

Cartesian perspective finds its continuation, among others, in Leibniz’s monadology; the proposed research project is supposed to prove that it is followed also by the theories of autopoietic systems and of reflexive law. Hegel’s thought is continued and developed by hermeneutical philosophy. In our research we will demonstrate that the same perspective is to be found also in the idea of responsive law. Subsequently, both traditions are reflected in the respective normative models of risk regulation<sup>3</sup>.

## **B) The problem of risk management**

### *i) Normative layer*

On this level two above mentioned models of risk management will be reconstructed: the models of global or local regulation. The former recommends wide-range and comprehensive interventions, which allow for the unified treatment of the risk at hand. Such regulatory policy will be often coordinated on a supranational level and supported by international institutions. The latter model, of local regulation, put forward the idea of local and limited regulatory intervention, as more flexible and adaptive to specific

---

<sup>3</sup> It should be noted however that dialogical (deliberative) model, at least in one of its versions, may be grounded alternatively in Immanuel Kant’s philosophy of reflection, *via* theory of discourse or John Rawls’ contractualism.



local conditions. Such regulatory policy may be either developed from bottom to up (from individual initiatives to wider cooperation), or set a regulatory framework which leaves a space for initiative of small groups of citizens, or both.

The opposition between these models will be illustrated by an example of anti-money laundering and counter-terrorism financing regulatory policies. Regulations in this field, however issued by nation states, are usually supported and monitored by such international organizations as the World Bank. World Bank's recommendations regarding these issues may be interpreted as an implementation of the model of global risk regulation. In the debates on this approach, it is contrasted to more locally oriented strategies, which may be more sensitive to endemic situation of various countries or regions. Strengths and weaknesses of both perspectives are analysed. Hence, this example may be plausibly used in our research in order to clarify and empirically ground the normative models we distinguish (see Halliday et al. 2014).

Another interesting example may be provided by a climate politics and its regulatory policies. Also here we may notice a clash of two alternative models of searching for solutions of existing problems and risks: either unified interventions of global range, or coexistence (and, to some extent, competition) of various local strategies of dealing with problems of climate change. What is more, the issues of climate politics have been scrutinized directly by the authors of the main theories considered on the sociological layer of the research (Beck 1995; Giddens 2009). This allows to establish a direct link between different levels of the study.

## *ii) Sociological layer*

On this level we shall analyse, on the one hand, the Ulrich Beck's theory of risk society (developed later by its author to the theory of the world risk society, and subsequently to prolegomena of a theory of metamorphosis), and on another hand the Anthony Giddens' theory of reflexivity of modern institutions (related to a so termed theory of structuration, proposed by the same author). As we have already noted, these theoretical standpoints share relevant similarities and are commonly regarded as defining the mainstream of the perspective of reflexive modernity (*resp.* reflexive modernization). Nevertheless, the existing similarities should not cover relevant aspects in which both theories differ from each other. The theory of risk society provides a support for the model of global regulation; in his considerations about current global risks, Beck argues for a radical political change of a global range, for invention of brand new political institutions for "the global risk society", which may allow to think about a "utopia of responsible modernity" (Beck 1992, 2007, 2016). As a counterpart of this view, the theory of reflexivity of modern institutions supports the alternative model of local regulation. This approach may be observed not only in Giddens' contributions to the social theory (Giddens 1984, 1990), but also in his politically oriented writings treating on problems of a reform of welfare state or of climate politics (Giddens 1998, 2007, 2009). Hence, theories of these two authors may serve as a clear

illustration how foundational assumptions about social ontology and methodology of social science are linked with meta-political choices of the particular model of risk management.

At the same time, both theories under examination offer a plausible ground to prove that the entire contradiction considered here is somewhat relative, since an effective social change usually requires a coordination of actions taken on the both levels: global (structural) and local (individual). This link between both levels, thus a relative character of the above opposition, is convincingly demonstrated by one more theory from the field of sociology of politics, namely the theory of governing the commons, set forth by the Nobel-prize winner Elinor Ostrom (Ostrom 1990). Hence, also this theory should be considered within the research.

### *iii) Philosophical layer*

On the philosophical level, the project will expose diverging theoretical views on the problem of acting in the social world, or – in other words – alternative social ontologies. The existing alternative is determined by diverse answers to the ‘structure – agency’ problem. The proposed project will firstly reconstruct this dilemma, perceived as one of the pivotal problems of contemporary sociology, and secondly will analyse opposite standpoints in the related theoretical debate. We assume that this will allow to demonstrate that the structural perspective offers a justification for the model of global regulation, whereas the perspective of agency justifies the model of local regulation.

Furthermore, the study will explicate that the mainstream of the current social theory accepts a general need to overcome this dilemma, therefore to treat the entire opposition on which it is built as a relative one. The stress is put on mutual interrelations between ‘structural’ and ‘subjective’ aspects of social practice. Such a tendency may be also found both in Beck’s and Giddens’ output, however it is the latter who treats this problem with bigger depth and clarity. At the same time, this tendency may be interpreted as a clue for normative models of risk management and as an inspiration to search for such a model which will harmonize both global and local dimensions of regulatory activity.

## **4. Research Methodology**

The research methods employed in the project are determined by the above distinction of three research layers of the study, for each of the layers requires its own specific methods.

On the normative layer, the so called dogmatic method is the dominant one. This method, being typical of legal doctrine (legal dogmatics), aims at description, reconstruction, and systematization of binding regulations (legal rules) or official law-making policies. This includes also constructing models of such regulations or policies. It is to be stressed that within the dogmatic method the primary interest is in reconstruction and systematization of such models (*de lege lata* analysis), and not in their

evaluation or assessment of their usefulness (*analysis de lege ferenda*). In this area, the project includes both conducting our own research of legal documents, as well as application of research results achieved by other authors in the selected domains.

On the layer of sociological theories, the project adopts first and foremost analytical methods, which are focused on meta-theoretical analyses of the selected theories. By analytical methods we mean mainly methods of explication and rational reconstruction (see Woleński 1980; Szubka 2009). This will allow for exposure of basic theses constructing each theory, as well as for highlighting the foundational tenets (premises) on which each of the analysed theories is grounded.

On the philosophical layer, the project will adopt both analytical and hermeneutical methods. The former will allow to clarify and reconstruct the philosophical ideas considered in the project; the latter will serve to reveal cognitive and axiological premises of those ideas (hermeneutical prejudgments, *Vorverständnisse*). In other words, the hermeneutical methods allow to reveal a tacitly accepted *world-view*, which various concepts or ideas are built on. To a limited extent, when considering the selected philosophical traditions, a historical method will be employed, as typical of a history of ideas.

## 5. Literature References

- Arnoldi, Jakob (2009): *Risk. An Introduction*. Cambridge, Malden, MA: Polity Press.
- Beck, Ulrich (1992): *Risk Society. Towards a New Modernity*. London, Newbury Park: Sage Publications.
- Beck, Ulrich (1995): *Ecological Politics in an Age of Risk*. Cambridge: Polity Press.
- Beck, Ulrich (1999): *World Risk Society*. Malden Mass.: Polity Press.
- Beck, Ulrich (2007): *Weltrisikogesellschaft. Auf der Suche nach der verlorenen Sicherheit*. Frankfurt am Main: Suhrkamp.
- Beck, Ulrich (2016): *The Metamorphosis of the World*. Cambridge, Malden Mass.: Polity Press.
- Beck, Ulrich; Giddens, Anthony; Lash, Scott (1994): *Reflexive Modernization. Politics, Tradition and Aesthetics in the Modern Social Order*. Stanford: Stanford University Press.
- Black, Julia (2010): *Risk-based Regulation. Choices, Practices, and Lessons being Learnt*. In OECD (Ed.): *Risk and Regulatory Policy. Improving the Governance of Risk*. Paris: OECD Publishing (OECD reviews of regulatory reform), pp. 185–224.
- Descartes, René (1986): *Meditations on First Philosophy. With selections from the Objections and Replies*. Edited by John Cottingham. Cambridge, New York: Cambridge University Press.
- Giddens, Anthony (1984): *The Constitution of Society. Outline of the Theory of Structuration*. Cambridge: Polity Press.
- Giddens, Anthony (1990): *The Consequences of Modernity*. Cambridge: Polity Press.
- Giddens, Anthony (1991): *Modernity and Self-identity. Self and Society in the Late Modern Age*. Cambridge: Polity Press.

- Giddens, Anthony (1998): *The Third Way. The Renewal of Social Democracy*. Cambridge: Polity Press.
- Giddens, Anthony (2007): *Europe in the Global Age*. Cambridge, Malden Mass.: Polity Press.
- Giddens, Anthony (2009): *The politics of climate change*. Cambridge: Polity Press.
- Halliday, Terence C.; Levi, Michael; Reuter, Peter (2014): *Global Surveillance Of Dirty Money: Assessing Assessments Of Regimes To Control Money-Laundering And Combat The Financing Of Terrorism*. Chicago: Center on Law & Globalization.
- Hegel, Georg Wilhelm Friedrich (2003): *Fenomenologia ducha*. Warszawa: Aletheia.
- Luhmann, Niklas (1993): *Risk: a Sociological Theory*. New York: de Gruyter.
- Lupton, Deborah (1999): *Risk*. London, New York: Routledge.
- Nonet, Philippe; Selznick, Philip (1978): *Law and Society in Transition. Toward Responsive Law*. New York: Harper & Row.
- Ostrom, Elinor (1990): *Governing the Commons. The Evolution of Institutions for Collective Action*. Cambridge, New York: Cambridge University Press.
- Paskalev, Vesco (2012): *Can Science Tame Politics. The Collapse of the New GMO Regime in the EU*. In *European Journal of Risk Regulation* 3 (2), pp. 190–201.
- Pichlak M. (*forthcoming*) *Regulating Risk and a Theory of Social Reflexivity of Law*. In Ubaldus de Vries, John Fanning (Eds.), *Law in the Risk Society*, Utrecht: Eleven International Publishing.
- Reed, Michael (2003): *The Agency/Structure Dilemma in Organization Theory: Open Doors and Brick Walls*. In Haridimos Tsoukas, Christian Knudsen (Eds.): *The Oxford Handbook of Organization Theory*. Oxford, New York: Oxford University Press, pp. 289–309.
- Siemek, Marek (2011): *Wykłady z klasycznej filozofii niemieckiej*. Warszawa: Wydawnictwo Naukowe PWN.
- Szubka, Tadeusz (2009): *Filozofia analityczna : koncepcje, metody, ograniczenia*. Wrocław: Wydawnictwo Uniwersytetu Wrocławskiego.
- Teubner, Gunther (1993): *Law as an Autopoietic System*. With assistance of Zenon Bankowski, Ruth Adler. Oxford, Cambridge, Mass.: Blackwell (The European University Institute Press series).
- Walsh, David F. (1998): *Structure/Agency*. In Chris Jenks (Ed.): *Core Sociological Dichotomies*. London, Thousand Oaks, New Dehli: Sage Publications, pp. 8–33.
- Weimer, Maria (2014): *Risk Regulation, GMOs, and the Challenges to Deliberation in EU Governance. Politicization and Scientification as Co-Producing Trends*. In Christian Joerges, Carola Glinzski (Eds.): *The European Crisis and the Transformation of Transnational Governance. Authoritarian Managerialism versus Democratic Governance*. Oxford: Hart Publishing.
- Weimer, Maria; Pisani, Gaia (2016): *Expertise as justification. The contested legitimation of the EU 'risk administration'*. University of Amsterdam. Amsterdam (Amsterdam Centre for European Law and Governance Working Paper Series, 2016-02).
- Woleński, Jan (1980): *Z zagadnień analitycznej filozofii prawa*. Warszawa: Państwowe Wydawnictwo Naukowe.