

## REVIEWS AND ANNOTATIONS

### Alexander Brösl: *Law is in the Air*. Pavol Jozef Šafárik University in Košice, Faculty of Law, 2021, 106 pp.

*Law (not Love) is in the Air* is a recent monograph by outstanding Slovak legal scholar, Professor Alexander Brösl, director of Gustav Radbruch Institute of Theory of law at Pavol Josef Šafárik University in Košice, Faculty of Law. The title of the monograph is not only a pun but as well a symbol of Alexander Brösl's love of law and legal science. The text is composed of six articles almost all of which have already been published separately in legal journals or collections of papers from international congresses and conferences. The contributions on various topics are presented in chronological order from 1997 until 2020. The idea to present such a compendium seems like a good one since individual articles and contributions in individual legal journals or collections of papers from international congresses and conferences are dispersed and it is sometimes quite difficult to put them together in order to follow the author's ideas, methods and conclusions. In this point the author presented quite a useful compilation of research outputs.

The first article deals with definitions in legal science. The author "defines" legal definitions, distinguishing them from questions or explanations. Definition includes partly the act of defining a concept, partly the result of this act. By definition as a result what is meant is a logical equality between *definiendum* on one hand (i.e. the concept which is going to be defined), and *definiens* on the other hand (i.e. this by what *definiendum* is determined). In legal science legal definitions in the form of explications are prevailing. Explications are aimed to say something important about what is defined, they want to point out qualities of what is defined. Brösl deals not only with theoretical categories but he also gives numerous examples from Slovak and French law.

The second article deals with the category of *Rechtsstaat*. The author notes that in the Slovak Republic there has been no discussion in this respect, neither before nor after defining the newly established state in the Constitution of the Slovak Republic of 1992 as "a secular state looking *Rechtsstaat*." There has recently been a discussion on progress, which concerns the definition of marriage solely as the union of one man and one woman.

The third article deals with precedents in general and in a statutory legal system. Brösl points out that the doctrine of the source of law is to determine the criteria for establishing what the law is: a source of law can become only what has been before acknowledged as law. As for the nature of precedent and its binding force, a structural answer can be offered: judicial decisions creating both individual rules and general rules. While general rules created by judges are not binding, they can come into force, and when they do so, they become part of the legal order. Case law is thus the set of general rules in force that are formulated by judges.

The fourth article deals with the situation when Constitutional Courts overrule Constitutional Amendments because of their unconstitutionality (non-compliance with the Constitution). Brösl seeks an answer to the question of which body is the most powerful and significant authority in a democratic polis, i.e. in a democratic state governed by the rule of law. In other words, which principle prevails: the supremacy/sovereignty of the Parliament or rather judicial review in the name of the protection of the Constitution.

The fifth article deals with the question of how to put together sources of law, principles, standards, rules and norms to get a consistent picture of law. The author comes to the conclusion that "we need an Ariadne's thread for all attempts to reach a true level of theoretical explanations, we need also in the field of law, as something safely leading us from general principles to individual decisions and backwards".

The sixth article deals with the independence of judiciary. The aim of the judiciary is according to Alexander Brösl to restore social peace through their judgements, which is not an easy task, es-

pecially given the expectation of the parties in individual cases. He asks the question of what is the ideal of a fair and just judge? How is it possible to find such a person? According to Brössl the judges's sense of justice must be universalized. He, no less than the jury man, is a reasonable man, his sense of justice is that of the *bonus pater familias*.

The reviewed monograph is worth reading for all who are interested in theory of law and also those who are working in the area of comparative law. As mentioned above the idea to create a compendium of already published articles and contributions in individual legal journals or collections of papers from international congresses and conferences can be an inspiration for other authors.

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