

# Tomasz Gałkowski

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„Demokratyczne państwo prawa”,  
Ed. M. Aleksandrowicz, A. Jamroz, L.  
Jamroz, Białystok 2014 : [recenzja]

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Artykuł został opracowany do udostępnienia w internecie przez Muzeum Historii Polski w ramach prac podejmowanych na rzecz zapewnienia otwartego, powszechnego i trwałego dostępu do polskiego dorobku naukowego i kulturalnego. Artykuł jest umieszczony w kolekcji cyfrowej [bazhum.muzhp.pl](http://bazhum.muzhp.pl), gromadzącej zawartość polskich czasopism humanistycznych i społecznych.

Tekst jest udostępniony do wykorzystania w ramach dozwolonego użytku.

*Demokratyczne państwo prawa*  
Ed. M. Aleksandrowicz, A. Jamróż, L. Jamróż,  
330 pp. Białystok: Temida 2, 2014

An interesting title has come out on the publishing market. Its subject matter concerns, in a broad and varied scope, the democratic state, whose foundation lies in the legal state. The analysis of the material gathered in the study proves that it is not directed at a wide circle of people wishing to get familiar with fundamental principles of defining and functioning of the democratic state of justice. The only exception is the study by Roman Tokarczyk entitled *Paradygmatyczne ujęcie koncepcyjnych i ustrojowych aspektów demokratycznego państwa prawa*. The presented specific issues concerning some democratic countries (Switzerland, Sweden, France, Spain, Israel) or selected problems both in philosophy and theory of law (*The principle of the rule of law and definition of the legal state; the theory of constitutional legal state and its impact on legal argumentation; the formal legal state*) and functioning of legal institutions (e.g., the Constitutional Tribunal, the institution of ombudsman, National Bank of Poland) emphasize the academic character of the study directed at experts seeking doctrinal inspiration or functional solutions. However, the layout of the study does not correspond to the above systematics, suggesting itself after reading the text. Presumably, this was not the conception of the initiators of the work and its Editors. It can be inferred after familiarizing oneself with the texts of particular studies. The starting point was not suggested in advance, clearly defined subject matter imposed on the authors of particular studies. They were allowed a great deal of thematic freedom determined only by issues and problems provoked by the democratic state of justice.

Yet an academic study concerning a wide range of selected problems has to meet methodological requirements which allow comprehensible coverage of par-

ticular issues. The Editors of the study chose 21 problems, discussed in detail, and divided them into three parts: (1) models and principles of the democratic legal state; (2) rights and liberties of an individual and their institutional protection; (3) institutions of the democratic state, particularly the judicial power. The multitude of issues from which the authors of the studies could choose freely makes it impossible to explicitly and exclusively classify each of them into a particular part. The Editors of the publication made this choice basing on the theme of each of the studies, which allowed to classify them into a particular subject matter. It enables the reader, as the Editors write in the preface, “to move in the wide area of the democratic state of justice” (p. 9).

The studies found in the first part revolve around general theoretic reflections on the state of justice and legal principles embraced in the general rule of citizens’ trust towards the legal state. The second part of the study points out at the homogeneity of the research matter focusing on the rights and freedom of the individual and their institutional protection. It mostly contains articles concerning some rights and liberties of the individual. The deliberations revolving around the institution of ombudsman in France and Spain, whose purpose is to protect the rights of the individual and the evolution of rights and liberties in the constitutional documents of France, are particularly interesting. The last part of the study contains articles referring to the institution of the democratic state, connected mainly with the execution of judiciary power.

Academic value of the study is unquestionable. From the point of view of the reader interested in particular issues, one can only draw attention to the layout of specific problems within the framework of distinct parts. The Editors determined the order of the studies using the alphabetical criterion of the authors’ last names. The layout of the articles according to their subject matter would suggest some kind of continuity attracting, so to speak, even greater interest.

*Tomasz Galkowski*

*University of Cardinal Stefan Wyszyński, Warsaw, Poland*