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LEGAL PERSONALITY: TOWARDS THE RIGHTS OF NATURE. EDITORIAL

This issue of *Studia Iuridica* explores various aspects of the contemporary debate surrounding the Rights of Nature. In recent decades, elements of the natural environment have either been granted legal personhood in various jurisdictions worldwide or the prospect of such a move has been debated by jurists, politicians, and activists. The motivations driving this phenomenon, the specific legal tools employed in its regulation, and the overall efficacy of these legal regimes remain the subject of ongoing international academic discussions. This discourse necessitates a multidisciplinary approach, as it engages deeply with philosophical and ethical concepts. Specifically, the idea of granting legal personhood to environmental entities is often justified in ethical terms; for some, however, this idea is perceived as inconsistent with the orthodox conceptual framework underpinning the institution of legal personality. The articles in this volume represent the core dimensions of the ongoing debate; by introducing diverse international perspectives on the topic, they facilitate an in-depth comparative analysis addressing various existing challenges.

In his article, Paweł Banaś examines various approaches to the ontology of legal personhood, with a particular focus on Visa Kurki's proposal. He argues that a 'legal person' is an ambiguous legal term serving multiple functional purposes, primarily aimed at solving distinct social problems. Although the rights of nature

are typically discussed in the context of environmental protection, other objectives (either as primary or secondary ones) – such as justice and legal coherence – can also motivate expanding the scope of this concept within a given legal system. Banaś concludes that this expansion raises a fundamental methodological question: what are the limits to the identity of the ‘legal person’ concept across different legal systems?

Filip Olszówka considers the very existence of a unified Latin American model for the Rights of Nature by comparing Ecuador, Bolivia, Colombia, Panama, and Peru. He concludes that there is no such single regional model, though these nations share a biocentric philosophy rooted in traditions like *Pachamama*. He shows the region offers a nuanced, context-specific evolution of environmental law. Ecuador enshrined the Rights of Nature in its constitution, relying on courts for reactive enforcement. Bolivia and Panama use broad statutes lacking practical application. Conversely, Colombia and Peru rely on judicial rulings to protect specific ecosystems via Guardian Committees.

Cezary Błaszczuk and Antoni Cypryański introduce the concept of ‘thin rights of nature’ (TRoN), inspired by the legal theory of thin animal rights. Taking a realist-positivist approach, the authors view the rights of nature as practical instruments of environmental justice rather than purely philosophical ideals. They argue that nature does not necessarily need formal legal personhood or explicitly codified ‘hard’ rights to be effectively protected. Instead, TRoN can be implicitly derived from existing, broad environmental protections. Using Polish environmental law as a case study, they demonstrate that existing institutions, such as national parks, could already be interpreted as possessing these thin rights.

Maciej Perkowski and Wojciech Zoń authored two texts in this volume. Their first article explores the very possibility of using the European Grouping of Territorial Cooperation (EGTC) as a mechanism to implement the Rights of Nature (RoN) within the EU, particularly in cross-border regions. RoN challenges anthropocentric frameworks by recognizing nature as a legal subject with inherent rights. While its implementation in Europe faces rigid legal barriers, the EGTC – a unique entity established under EU and national law – provides a pragmatic framework for transboundary cooperation. The other text by Perkowski and Zoń explores the application of the Rights of Nature (RoN) to the Białowieża Forest. The authors argue that current anthropocentric laws and fragmented protection regimes fail to safeguard the forest as a whole, an issue that is worsened by complex geopolitical tensions. By drawing on international precedents, they evaluate the potential of granting the forest legal subjectivity. Implementing RoN here presents significant challenges, such as balancing conservation with economic activities, like forestry and tourism. To address this, they propose using the European Grouping of Terri-

torial Cooperation to improve cross-border governance, at the same time stressing the need for stakeholder compromise.

The article, co-authored by Claudia Brindis and Gustavo Hernandez, explores how the legal tool of *amicus curiae* has been instrumental in advancing the recognition of Nature as a rights-bearing subject in Latin America. The authors analyze how third-party interventions have provided crucial scientific, legal, and cultural arguments to influence landmark judicial decisions and legislative frameworks across the region. Highlighting examples from Ecuador, Bolivia, Colombia, Mexico, Peru, and Argentina, the study demonstrates that *amicus curiae* briefs help protect specific ecosystems and species while fostering new forms of inclusive environmental governance.

In her text, Wiktoria Woźny discusses whether nature can be a rights-bearing subject in the EU despite lacking formal legal personality. Using Hohfeld's framework of rights and duties, Woźny argues that there exist theoretical grounds for recognizing nature's rights. She evaluates the procedural dimension by identifying who can functionally represent nature, focusing on the European Commission and NGOs. Ultimately, the author concludes that current procedural instruments are too fragmentary to fulfill the prerequisites for functional legal subjectivity.

The article co-authored by Andres Martinez-Moscoso and Israel Castro-Enriquez studies the legal recognition of rivers as rights-bearing subjects in Ecuador. Through a case study approach, the authors analyze landmark Constitutional Court rulings on the Aquepi and Monjas Rivers to demonstrate Ecuador's shift from symbolic recognition of nature's rights to concrete judicial enforcement. The authors conclude that while this ecocentric model is pioneering, ensuring the practical enforceability of such judicial decisions remains the greatest challenge.

Jacques Leroy discusses granting legal personality to watercourses in French law to enhance environmental protection. Leroy argues that extending legal personhood to nature is technically possible, drawing parallels to the 19th-century expansion of legal subjectivity to business corporations. He posits that legal personality is a flexible tool used to defend legitimate collective interests. If society deems a river's interests vital, it can be endowed with rights – like suing for damages – managed by human representatives. Ultimately, he urges jurists to break with conservatism and adapt the law to the ecological crisis by moving beyond the strict divide between persons and things.

Finally, Jerzy Bieluk's article explores granting legal personality to nature as a vital environmental protection tool. It contrasts spiritual indigenous frameworks with a pragmatic European model. Spain's Mar Menor lagoon exemplifies this

practical approach, becoming Europe's first natural entity with legally enforceable rights in 2022, which were introduced after a severe ecological crisis. Inspired by Spain's legislation and the catastrophic 2022 Oder River disaster involving mass fish die-offs, a Polish citizens' initiative sought similar legal rights for the Oder. The draft proposed giving the river the right to exist and regenerate.

Editors

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