



*Legal Survivals: A Study on the Continuity of Polish Private Law After 1989*  
R.T. Mańko

**Rafał Mańko**

**PhD Candidate – Faculty of Law**

**Supervisor: Prof. M.W. Hesselink**

**LEGAL SURVIVALS:**

**A STUDY ON THE CONTINUITY OF POLISH PRIVATE LAW AFTER 1989**

**(abstract)**

The dissertation poses the following research question: ‘What are the conditions of possibility of the endurance of legal institutions which had been introduced under one political and socio-economic system (in order to fulfil a function specific to that system), but have not been removed from the legal order following a systemic transformation?’ In order to answer it, the dissertation resorts to analyses of selected legal survivals present in Polish private law (both substantive and procedural) after 1989.

On the basis of the empirical analysis of eight legal survivals in Polish private law after 1989, the dissertation provides the following answer to the research question: ‘The fundamental condition of possibility of the endurance of legal survivals following a systemic transformation is the functionality of the legal institution in question towards the new socio-economic system.’

Such functionality results from the fact that at least partly the old functions of the institution in question are still useful after the systemic transformation, as well as from the fact that the

institution in question assumes new functions. The way in which a legal survival changes its functions (its 'mechanism of endurance') differs depending on the legal form of the survival. Standards (general clauses) and competence rules, especially if their form is very abstract and flexible with regard to content, are able to assume new functions relatively easily, precisely because of the content-neutral character of their form. Conversely, clusters of rules which are permeated with content, usually require explicit legislative adaptation in order to be able to drop old functions and assume new ones.