

Description for the general public

The subject matter of the planned research project is developing an answer to a question of what constitutionality without a constitutional court means. The project has a unique character because it will constitute basic research of actual problems of the Polish constitutionalism, including a comparative perspective. Moreover it will include a reference to selected European states, in which, due to the crisis of functioning of a constitutional court or a certain model of hierarchical verification of conformity of law, also the question, how it affected the perception of constitutionality of law, appeared.

The main research problem will be a determination of the actual meaning of the concept “constitutionality of law”, taking into account transformations of the contents of the principle of constitutionalism in Poland and in the contemporary world. The next problem will be focused on an analysis of various types of measures of constitutional review of law – other than the one performed by a constitutional court – which may influence and ensuring constitutionality of law. The last research problem will be a comparative analysis with regard to understanding of the concept of constitutionality of law in selected European states in which a crisis of constitutional judiciary occurred or another model of ensuring conformity of law to the Constitution exists.

Tackling the described scientific problems is justified by the lack of a clear definition of “constitutionality of law”, what hinders assessment of what a law conformed to the constitution is and when it realises requirement flowing from the principle of constitutionalism. It is particularly important in a situation when a body which is constitutionally entitled to decide upon what conforms to the constitution, and, in other words, to adjudicate on what is constitutional, cannot effectively perform its function due to normative or other restrictions.

The research will be conducted with the use of the basic method of legal research, i.e. the dogmatic one. Also the comparative method will be used, because conclusions regarding the Polish legal system will be compared with the ones developed upon an analysis of legal solutions of selected Member States of the European Union. In order to clarify state of their laws the research plan includes study visits on universities functioning in these states.

Final results of the research project will be presented during a scientific conference and in the form of a monograph issued by a renowned publishing house.