

Specificity of constitutional interpretation by European constitutional courts

The aim of the project is to research and describe the specificity of constitutional interpretation by constitutional courts of Western Europe as well as Central and Eastern Europe.

The main research hypothesis of the project is that constitutional interpretation by constitutional courts is situated between operative and doctrinal interpretation, which determines its specific character. Constitutional courts develop in their jurisprudence their own specific methods of constitutional interpretation that apply the traditional methods of linguistic and extra-linguistic interpretation, giving priority to the latter. The interpretation of the constitution by constitutional courts is largely law-making in nature, shaping the common understanding of this legal act and its application. Constitutional courts, through their interpretation, develop the constitution, supplement it, and even substantially change and improve it. At the same time, they rely mainly on their own authority, rarely referring to the jurisprudence of other national, international or foreign courts, as well as to the views of the legal doctrine. They set boundaries for their own interpretation of the constitution, and these boundaries are more flexible than those set by other bodies interpreting the constitution, in particular the common courts. The interpretation of the constitution by constitutional courts also has specific legal consequences and a particular impact on normative and extra-normative reality.

The reconstruction of the specificity of constitutional interpretation by constitutional courts requires taking into account the specificity of particular constitutional courts, the specificity of the constitution of the particular states which is the subject of interpretation, and the specificity of the constitutional tradition and systemic practice, which determine the approach of the constitutional court of a given state to constitutional interpretation. Hence, an important component of the research project is comparative legal research, in which a research hypothesis has been adopted as a starting point, according to which there are significant differences in constitutional interpretation made by constitutional courts of Western Europe, which have an established and long tradition of constitutional interpretation, and constitutional courts of Central and Eastern Europe, which were established much later, and thus have a much weaker political position and jurisprudential authority.

The project will be carried out by a PhD student selected in an open competition, who will conduct theoretical and empirical research based on the jurisprudence of European constitutional courts and Polish and foreign literature. The project includes international cooperation with three foreign research centres, whose scholars specialise in constitutional interpretation and comparative constitutional law research. A research stay of a PhD student at the Max Planck Institute for Comparative Public Law and International Law in Heidelberg is also envisaged.