

The main objective of the project *Theory of the Interpretation of Polish Constitution of 1997* is to develop a theory of interpretation of the currently valid Polish Constitution. No attempt has yet been made to systematically develop an adequate theory of constitutional interpretation, probably because the majority of Polish scholars researching the peculiarities of constitutional interpretation take the view that such a theory is not necessary and that the interpretation of the Polish Constitution can be conceptualised using existing Polish theories of statutory law interpretation (clarificatory theory of operative legal interpretation elaborated by Jerzy Wróblewski and derivational theory of legal interpretation elaborated by Maciej Zieliński). Even if this is possible, undertaking the task of developing such a theory poses many benefits and may clarify the phenomenon of constitutional interpretation.

We assume that the most appropriate jurisprudential and doctrinal basis for the creation of a distinct theory of constitutional interpretation is the theory of the constitutional state of law (constitutional *Rechtsstaat*), which refers to the phenomenon of constitutionalisation of contemporary national legal orders. This theory, due to, *inter alia*, its fundamental thesis on the ‘opening of law to morality’, best allows capturing the so-called ‘radiation of the constitution’ in the hierarchical and horizontal dimensions. It also considers the axiological aspect of the Constitution in the form of its axiological interpretation, which, incidentally, has recently been increasingly postulated in Polish legal theory.

During the course of the project, we will be looking for answers to three main questions. First is the ‘question of specificity’: What are (1) the interpretative specificity of the Constitution as a legislative act of the highest rank in a given national legal order, characterised by distinctive features in relation to ordinary laws (statutes), and (2) the specificity of its interpretation? Second, we address the ‘typological question’: With which ideal types of so-called ‘interpretative situations’ do we have to deal in legal practice, and which interpretive decisions are taken in the course of direct application of the Constitution (independent or dependent, that is, its co-application)? Third is the ‘theory-construction question’: What methods of constitutional interpretation are used in practice and in legal doctrine? What do they consist of, and how should they be shaped theoretically and dogmatically?

The answers to these questions will outline a theory of interpretation of the Polish Constitution. The theory will have a methodologically mixed nature. Its dominant part will be of a descriptive-critical character, connected with the presentation and criticism of the methods of interpreting the Constitution of the Republic of Poland in the hitherto practice and legal doctrine. The other part will be a normative-conceptual theory, presenting the accepted methods and techniques of interpreting the Constitution in an analytical approach. It will also be an interdisciplinary theory, realising the postulate of the internal integration of legal sciences in the form of combining theoretical and ius-philosophical analyses with dogmatic considerations from the sphere of constitutional law dogmatics.

In constructing the theory of legal interpretation of the Constitution of the Republic of Poland, a departure from the commonly accepted in Poland tripartite division of legal interpretation directives (linguistic, systemic, functional interpretation) is necessary in favour of a more specific typology of interpretation methods and techniques. To this end, we will consider: (1) the linguistic interpretation of the Constitution; (2) the axiological interpretation of the Constitution; (3) the teleological interpretation of the Constitution; (4) the pro-constitutional interpretation of the Constitution; (4) the pro-European and comparative interpretation of the Constitution; (5) the historical and genealogical interpretation of the Constitution; and (6) the systematic interpretation of the Constitution.

The main results of the project’s research will be elaborated on and presented in the following forms:

- 1) A monograph that will be divided into three parts, devoted to (1) the peculiarities of the Constitution as a legislative act of the highest rank in the national legal order and the peculiarities accompanying its tribunal, judicial, and extrajudicial interpretation; (2) the interpretation of the Constitution of the Republic of Poland in various ‘interpretative situations’, (3) the conceptual network and the methods and techniques of interpretation of the Constitution of the Republic of Poland, making up the new theory of its interpretation. In addition, the Appendix will include seven chapters on methods and techniques of interpretation of the Constitution in selected European countries (Germany, France, Switzerland, Austria, Italy, Spain, and the Czech Republic).
- 2) A series of articles, written in foreign languages (2 papers in English, 1 in German, 1 in French, 1 in Spanish), and in Polish. These articles will also include glosses to court and tribunal judgements of recent years that are significant from the point of view of the creation of a new theory of interpretation of the Constitution of the Republic of Poland.