Załącznik 4

Summary of Professional Accomplishments

Name and surname

Aleksandra Syryt

Diplomas and degrees awarded

- Academic degree of doctor of law. The resolution of the Council of the Faculty of Law and Administration of Cardinal Stefan Wyszynski University in Warsaw on 15th January 2013.

The title of the dissertation: *Control of the mode of adopting the act before the Constitutional Tribunal*

Promoter:	prof. dr hab. Mirosław Granat
Reviewers:	prof. UKSW dr hab. Zbigniew Cieślak
	prof. dr hab. Krzysztof Wojtyczek

- Master's degree in law. Diploma obtained at the Faculty of Law and Administration of Cardinal Stefan Wyszyński University in Warsaw in 2006.

The title of the dissertation: *The scope of the right to work in the Constitution of the Republic of Poland of April 2, 1997*

Promoter:	prof. dr hab. Mirosław Granat
Reviewer:	prof. INP PAN dr hab. Ewa Popławska

Information on employment in educational institutions

September 2007 - 2014 – Assistant Lecturer at The Constitutional Law Department, Faculty of Law and Administration of Cardinal Stefan Wyszyński University in Warsaw

2014 - until now – Associate Professor at The Constitutional Law Department, Faculty of Law and Administration of Cardinal Stefan Wyszyński University in Warsaw

ASf

Indication of scientific achievements within the meaning of Article 16(2) of the Act of March 14, 2003 on Academic Degrees, Academic Title and on Degrees and Title in the Field of Art (consolidates text in the Journal of Laws of 2017, item 1789):

As an achievement referred to in art. 16 (2) of the Act of 14 March 2003 on academic degrees and academic title, and on degrees and title in the field of art (Journal of Laws of 2017, item 1789), I am indicating the monograph „The impact of international law on constitutional judiciary in Poland – a constitutional perspective", Warsaw 2019, Publisher of the Institute of Justice, ISBN 978-83-66344-02-0.

The publishing reviewers of the monograph were prof. UKSW dr hab. Zbigniew Cieślak and prof. PWSZ in Wałbrzych dr hab. Piotr Szymaniec.

Monograph „The impact of international law on constitutional judiciary in Poland - a constitutional perspective" is the result of my research related to the status of the Constitutional Tribunal, including the system of proceedings before that body and its adjudicating activity related to its system. The scientific goal of the conducted analyzes was to determine how, in the multicentric legal system, the constitutional body of a state whose basic competence is adjudgering certain acts of law and legal regulations on the constitutionality of the Constitution is subjected to the influence of law from other than state-owned law centers.

The Constitutional Tribunal, in spite of the fact that it is a strictly systematic institution regulated by national law, similarly as the state and its other organs, does not function in isolation from other entities. International law, including the law of the integration organization (primarily European Union law), affects the Polish legal system, including its constitutional organs.

The aim of the research problem was to identify the areas of influence of international law on the Polish constitutional court and to determine to what extent the impact in these areas is binding. The research problems presented in the monograph concerned the indication of:

1) what kind of acts influence the formation of constitutional judiciary in the external sphere;

2) in what forms this influence takes place;

3) to what extent the impact is binding and whether it is justified by the principles resulting from the rule of law;

4) in which area you can see the impact;

5) what are the consequences of impact in specific areas.

I accepted for the main thesis of the monograph that there are three general areas of influence of international law on constitutional judiciary in Poland. These are the area of adjudication, the system of the Tribunal and rules of conduct before this body. The impact concerns acts of hard law as well as international acts of a non-binding nature (soft law). In the area of adjudication, the impact concerns both the subject matter and the control pattern before the Constitutional Tribunal and the significance of international law in interpreting the national

AS

provisions that are the object or control pattern. The effects of the impact indicated above depend on the area they refer to. The degree of being bound by international acts therefore depends on whether the given issue regarding the constitutional court is specified in them, and if so, what kind of act the act has. Insofar as the obligation to comply with international law, including in relation to the Constitutional Tribunal, concerns binding acts, non-binding international acts of law may not influence imperiously any of the areas affected by the impact.

The following hypotheses were accepted for the research:

1) the state has a sovereign right to shape the system of its organs, and this means that the limits of the impact of international law on these bodies are determined by constitutional values and principles. It is the constitution that implies a relationship with international law. In this context, the importance of a state that is a subject of international law that is competent to act in this area in order to pursue national interests should be emphasized. Due to the nature of the country, certain rights arise. Among them there are those that are not owned by other entities of international law, and those which under the legal norms may be granted to entities other than yours;

2) constitutionality as a feature of law requires the creation of mechanisms to protect the law's compliance with the Constitution. This is a consequence of the principle of supremacy of the constitution. The shape of these mechanisms and the choice of the constitutional protection model depend on the sovereign decision of a given state;

3) the state respects international law binding upon it and as a subject of international relations it is not isolated from the international system. This means that it must take into account the impact of other orders on its legal system, and thus also its own organs;

4) the development of international law and the growing importance of entities operating internationally affects the national constitutional organs, including the organs of constitutional review of the law. This impact does not bypass the area of constitutional law, which is also included in the internationalization process. Due to the emergence of various international mechanisms (especially in the field of human rights protection, but not only), the question of constitutionalism appears in the internal and external dimensions. The consequence of this may be changes in the approach to the principle of supremacy of the constitution;

5) the influence of international law on the constitutional court concerns the systemic, procedural and material levels, but in relation to each of them, the nature of binding with international obligations is different. While in the case of adjudication and mode of conduct specific patterns may directly result from international law, the constitution, powers and organization of the constitutional court should be outside the binding scope of influence;

6) the influence of international acts on constitutional judiciary in Poland is connected above all with the fact that international law (including some EU law acts) becomes part of the Polish legal order after transposition, and some EU law acts are applied directly, due to the content of contracts concerning EU membership and due to Polish constitutional provisions.

ASA

2. The results of the research have been presented in eight chapters. In the first two I referred to the constitutional principles of the system, which determine the scope of influence of international law on the Constitutional Tribunal. I have established that the most important principle that affects the perception of the systemic role and competences of the Constitutional Tribunal is the principle of supremacy of the Constitution. Due to this principle, it was necessary to create a system of its protection. The principle of division and balance of power and independence of the judiciary as well as the independence of judges are not without significance. In addition, among the special rules, the position of the Tribunal in relation to international law is also determined by the principle of its final decisions and the principle of statutory regulation of the organization and procedure before the Constitutional Tribunal.

When analyzing the impact of international law and EU law on the Constitutional Tribunal, it should be taken into account that:

1) The Constitution of the Republic of Poland is the highest law in Poland, and it is up to this act that the decisions of the Constitutional Tribunal should ultimately relate, including those containing international and EU elements;

2) without the principle of supremacy of the Constitution (determining the basic norm), it would not be necessary to create a system of constitutional review of the law;

3) the legitimacy of the Constitutional Tribunal finds a source in the supremacy of the Constitution;

4) the Constitutional Tribunal belongs to the organs of the judiciary, and although it is an entity separate from the courts, it has features that justify the analysis of its position with respect to international standards for judicial authorities and their members;

5) independence and separateness of the Constitutional Tribunal from other entities does not mean the autonomy of this body and placing it outside the framework of the system of public authorities; on the contrary, the Tribunal must act on the basis and within the limits of the law, and the Constitution assumes that judges will be bound by their regulations, which means that their actions can not be arbitrary. These activities must fall within the limits set by constitutional standards;

6) The Constitution of the Republic of Poland provides mechanisms for the balance of power in relation to the Constitutional Tribunal, one of the more important is that the organization and procedure of proceedings before the Tribunal is determined by the Parliament's law;

7) The Constitutional Tribunal is the court of the last word in matters belonging to its cognition. In this regard, no domestic or international entity may violate the principle of finality of judgments of the Constitutional Tribunal and their generally binding force;

8) The Constitutional Tribunal in its activity must comply with international law binding Poland, as it results from art. 9 of the Constitution of the Republic of Poland, however, the impact of this right on individual areas of the Tribunal may vary.

The first area that makes this organ can not be indifferent to international law is adjudication. The Constitution of the Republic of Poland already gives the possibility under

AS

certain conditions that international agreements should be subject to or a pattern of control in the proceedings before the Tribunal. In this way, the principle of supremacy of the Constitution of the Republic of Poland is implemented. Due to the content of provisions of the Constitution, also other international acts, if they are of a normative nature, may be controlled by the Tribunal in some modes.

The second area in which international law affects the Tribunal is the one related to procedural standards. In this case, if the standard were to result from binding international law, it would have to be applied by the Court. If, however, it is defined only as a non-binding act, then the Tribunal may be inspired by it in issuing the decision, but such an act can not have a dominant influence on the Tribunal.

The third area of influence of international law concerns the system of the Tribunal. This is particularly important in shaping relations between the Constitutional Tribunal and international judicial bodies. This is related to the question of transferring the constitutional competence of the body regarding the control of the hierarchical compliance of the law outside. Therefore, it should be considered whether the possible transfer of competences would fall within the acceptable framework set out by the principles of sovereignty and constitutional identity. This issue is debatable, because on the one hand the Constitutional Tribunal in its jurisprudence recognized the competence to control the observance of the Constitution as an element of constitutional identity. This finds expression in the principle of supremacy. Therefore, the transfer of these competences should be considered as unacceptable. On the other hand, the Tribunal requires public authorities to cooperate with international bodies in a friendly and loyal way and to resolve conflicts between domestic and international law (including EU law), respecting the principle of favor of international law and the primacy of EU law.

In the third and fourth chapters, I presented the results of the analysis of the Constitutional Tribunal's jurisprudence regarding acts of international law as a subject (chapter 3) and control pattern (chapter 4) in the proceedings before the Tribunal. The results of the research are based on a detailed analysis of CT case law from 1997-2018, since only since the entry into force of the Constitution of the Republic of Poland, the Tribunal obtained formal competences in this respect. The analysis, however, does not ignore the previous jurisprudence of the Tribunal, especially that it referred to international law when determining the standards of the state system and the status of an individual, and also related indirectly to the verification of international agreements by assessing the constitutionality of the ratification act.

In previous practice, the Constitutional Tribunal exercised its jurisdiction to adjudicate on the conformity of international agreements with the Constitution, as well as adjudicate on the constitutionality of normative acts other than international agreements by acts of international law and EU law. The proceedings in this respect were initiated primarily by constitutional complaints and applications of authorized entities. Cases of this kind of control were, however, quite rare. Only a few cases ended with the issuance of a substantive decision. The reasons for this state of affairs can be seen in various factors, among which it should be pointed out the lack of awareness of international agreements and Poland's binding normative acts of international and EU law before the Constitutional Tribunal (in certain control modes), uncertainty about the effects of the Tribunal's rulings and problems that may result from a

A Sf

possible ruling on the unconstitutionality of such an act or a part thereof. However, the conducted analysis showed that the main reason for refusal to recognize the subject matter were formal defects of the letters initiating proceedings before the Tribunal.

he analysis showed that more often than the object of control, international agreements (their provisions) are a pattern of control in proceedings before the Constitutional Tribunal.

The possibility of the Constitutional Tribunal adjudicating on compliance with a ratified international agreement depends on individual control modes. While in a wide range it is possible in cases initiated by applications of authorized entities and court questions, it is inadmissible in the case of a constitutional complaint. The Constitutional Tribunal does not have one method of action in cases in which the initiator of the proceedings simultaneously sets up constitutional and international pattern. Either he discontinues the proceedings with respect to the latter, recognizing their redundancy with the identity of the standard of protection, or, on the contrary: it makes them a control pattern, emphasizing a given standard.

Regardless of the mode of control, international law and EU law appear in the proceedings before the Constitutional Tribunal as elements of the justification of its ruling. The Constitutional Tribunal, using international standards to explain the direction of its decisions, acts in this respect in a subsidiary manner, and the content resulting from international law are not decisive in assessing the constitutionality of individual legal solutions. In my opinion, even without recourse to them, the Tribunal would have grounds for adjudicating in a particular direction, since the relevant content, which is a control pattern, derives from constitutional patterns. Therefore, despite the multifaceted nature of the constitutionality of law, the Tribunal considers its adjudication as a matter of compliance with the Constitution of the Republic of Poland.

Although before the 1997 Polish Constitution came into force, referring to international standards was important because certain legal solutions were not explicitly indicated in constitutional provisions and certain decisions of the Constitutional Tribunal had to be legitimized, nowadays the Constitution of the Republic of Poland is this source of control patterns that are the most important and do not need to be supplemented by international law, at least in areas that are challenged by participants in proceedings before the Constitutional Tribunal. It is rarely a situation when a letter initiating proceedings before the Tribunal itself indicates the pattern from a ratified international agreement that would not have its equivalent in the Constitution of the Republic of Poland.

In the fifth chapter I determined that the Constitutional Tribunal in the justifications of its rulings refers to international law and EU law, as well as acts of international soft law and uses them to interpret the subject and patterns of hierarchical control of legal compliance. Depending on whether the given acts serve to interpret the subject or the control pattern, the purpose of this interpretation method is different.

In the case of national law, which is a control pattern in proceedings before the Constitutional Tribunal, it is primarily a system of reconciliation of the content of internal law with the provisions of international law, especially the EU law, which have priority over the

ASP

law. This favors the harmonization of legal systems and allows better implementation of EU law.

In the case of constitutional provisions that are a control pattern in proceedings before the Constitutional Tribunal, the purpose is different. In view of the principle of supremacy of the Constitution resulting from its art. 8(1) it can not be assumed that recourse to international law in this case serves to reconcile the content of the act with the highest legal force in a state with international law and EU law. Systemically, the content of the latter must be in accordance with the Constitution. The use of international law and the jurisprudence of international courts in the reconstruction of control patterns resulting from the Constitution of the Republic of Poland is intended to confirm Poland's compliance with its binding obligations in a spirit of loyal and harmonious cooperation.

In the sixth, seventh and eighth chapters, I analyzed this sphere of influence of international law on the Constitutional Tribunal, which is related to the treatment of this body by international entities as a court. I have established the meaning of the term „international standards", which may take the form of legal norms, and thus belong to the so-called hard law, but can be determined by acts of soft law. While compliance with international standards resulting from hard law is secured by specific sanctions, compliance with standards resulting from soft law is related to specific decisions of a more political than legal nature. For the Constitutional Tribunal, it is important to observe and apply laws binding Poland's international law and EU law, which results from relevant standards. Soft law acts do not bind the Constitutional Tribunal. However, it is not impossible for the legislator to refer to the standards in question when shaping the content of legal provisions concerning the constitutional court, and the Court has appealed to them when justifying the decisions made. Practice shows that the Tribunal uses soft law acts to justify its rulings.

The conducted analysis showed that in international law there are no direct legal solutions regarding the constitution and organization of the Constitutional Tribunal. If the legislator decides to make this entity a judicial authority, it must meet the universal requirements of institutional and individual independence for the judicial authorities. However, these guarantees are already provided in the Constitution of the Republic of Poland, which stands in the hierarchy of sources of law over binding international law. International standards may be auxiliary but not decisive for the constitution and organization of the Constitutional Tribunal. Certainly, they are not rules binding on the state, and thus can not be considered as a criterion whose transgression results in liability on the basis of international law.

No norms of international law impose binding rules of conduct regarding the formation of the constitutional court system in a nation-state. It is a matter that belongs to one of the sovereign powers of the state and can not be transferred to the international level, especially that it concerns compliance with the constitution of a given state, and not with the acts binding on all states in a given universal or regional system.

In international law, guidelines are formulated that may directly or indirectly relate to proceedings before the Constitutional Tribunal. Usually, these standards are related to the right to a fair procedure, resulting from the ECHR, and developed in the case law of the European Court of Human Rights. This may raise the question as to how much the constitutional court is

ASf

bound by the content, especially since the specificity of this body does not allow to fully state that it is a court within the meaning of art. 6 ECHR.

In view of the above, it should be assumed that the directions of action indicated by international bodies relating to the shape of proceedings before the Constitutional Tribunal can not be considered binding on Polish constitutional law. The Constitutional Tribunal, with the competences specified in art. 79(1), art. 122(3), art. 131(1), art. 188, art. 189 and art. 193 of the Constitution of the Republic of Poland, is not a court within the meaning of art. 6 ECHR and does not decide individual civil or criminal cases. Even if a concrete check before the Constitutional Tribunal is initiated in connection with a civil or criminal case, the Tribunal's resolution is always general and abstract, and the adjudication by the Tribunal primarily pursues the public goal of ensuring hierarchical compliance with the Constitution of the Republic of Poland. The Court's judgment is therefore not a direct basis for the recognition of civil claims or the assessment of criminal charges.

At the same time, it should be stated that certain directives regarding the shape of proceedings before the Constitutional Tribunal may be used to justify the existence of specific legislative decisions when designing the provisions on proceedings before the constitutional court. However - as emphasized also by international bodies - the systemic specificity of individual democratic states may be different, and thus the shape of the hierarchical compliance system may also differ from each other. States have discretion in this regard, because, according to the ECHR, the public authorities of a given state are the most appropriate to perform acts in legislative, administrative and court proceedings.

The analysis of solutions regarding proceedings before the Constitutional Tribunal allows to state that Polish solutions do not usually deviate from the proposals presented by the Venice Commission regarding constitutional courts. What is more, the Constitution of the Republic of Poland ensured a wide participation of public and private entities in the proceedings before the Constitutional Tribunal, including the power to initiate control. It can be done in both abstract and concrete mode. Many procedural issues have been left to the discretion of the Tribunal, and specified rigors, for example on certain deadlines, were set only in such a way as to protect the public interest and provide certain rights to participants in the proceedings.

An important position in the proceedings before the Constitutional Tribunal was granted to the Ombudsman, who not only can access most cases before this body, but is also not limited by his or her constitutional tasks, which means that he or she can submit applications to Constitutional Tribunal, not only when the allegation would be a violation of human rights and freedoms. It should be emphasized that the Ombudsman is the body that most often in the applications initiating the proceedings before the Court refers to international standards and often ratified international agreements makes the standard of control in this proceeding.

3. The conducted research allowed to establish that international law and European Union law are not indifferent to the system, organization and procedure before the Polish constitutional court. The areas in which one can observe the influence of international and EU law on the Constitutional Tribunal are defined first by the Constitution of the Republic of

ASJ

Poland itself. The manner of shaping the competences of the Constitutional Tribunal, expressed mainly in art. 188, points 1-3, as well as in art. 193 of the Constitution, in which the constitution-maker made certain types of international agreements a subject, respectively, or a hierarchical control pattern of law compliance, directly binds the Tribunal to international law. In addition, this body (like all public authorities in Poland) is bound by the general principle of favor for international law (Article 9 of the Constitution of the Republic of Poland).

The review of the jurisprudence of the Constitutional Tribunal of 1997-2018 showed that the review of constitutionality of international treaties was and is quite rarely performed by CT. The Tribunal approaches the control of acts of international law with caution because of the problem of the consequences of the possible recognition of international acts as incompatible with the Constitution of the Republic of Poland. This means that the use of a certain competence of the Constitutional Tribunal is treated as ultima ratio, when the conflict between international (and EU) law and the Constitution can not be resolved by the conflict rules, primarily determined in art. 91(2) and (3) of the Constitution of the Republic of Poland. In addition, the Court's barrier is the judiciary rules resulting from the activities of the CJEU, in particular the principle of the primacy of the application of EU law before national law. The Tribunal emphasizes that the Constitution of the Republic of Poland and international and EU law are based on the same set of common values that set the nature of a democratic state of law and the catalog and content of fundamental rights. In this way, however, in some cases the Tribunal does not fulfill its competences conferred on it by the legislator. Meanwhile, his powers to control the hierarchical compliance of law in Poland have not been transferred to any body or international organization. From the point of view of the essence of the Tribunal's competence, such a transfer would be incompatible with the content of art. 90 sec. 1 of the Constitution as defined in the judgment of reference number K 18/04. If it is forbidden to transfer competences as to the essence of matters defining the authority of a given body of state authority, granting the international body the power to exercise the competence of the Constitutional Tribunal would be contrary to the Constitution.

The legislator admitted that the reference point of the control before the Constitutional Tribunal were ratified international agreements. It is up to the Court whether these patterns will be fully used during the compliance analysis, or whether the authority considers that recognition is unnecessary for the purposes of the audit. The Constitution and laws do not set the framework for the Court's action in this regard. Moreover, imposing them in the subconstitutional or internal act would be an unjustified interference in the sphere of judicial independence. It would also be in conflict with the standards set forth in international soft law acts regarding the constitutional court system and the rules of proceedings before this body.

Formal possibilities to make some sources of international law a pattern or subject of control in proceedings before the Constitutional Tribunal do not exhaust the impact of international law on adjudication. Regardless of whether the initiator of the proceedings refers to international acts and standards, the Tribunal often uses them when justifying its decisions, even if these are not subject to or a pattern of control.

Usually the Tribunal does not explain the motives for which it refers to international law or, more broadly, to international standards in the justifications of its rulings. Sometimes,

ASP

however, this authority indicates that these acts are an important clue to the interpretation of constitutional provisions. Therefore, it must be recognized that this is an auxiliary source for the Court in assessing compliance.

Recourse to specific international acts, the jurisprudence of international courts or standards of international soft law does not mean that the normative act under examination or its part will automatically be considered illegal or unconstitutional. Nevertheless, the fact that recourse to international law in the jurisprudence of the Tribunal is present practically from the beginning of its functioning, and in every year in the justifications of its rulings this law appears, proves its actual impact on the judicial activity of the Constitutional Tribunal. In this way, constitutional and international standards are permeating, which is an expression of respect for international law and standards derived from it by the Polish constitutional court.

The jurisprudence of the Constitutional Tribunal, although it is an area in which the influence of international law on the constitutional court is most visible is not the only area. International law also affects the system of this body and the procedure.

However, while the impact on case-law has its normative and constitutional source, there are no legal grounds (apart from the obligation under Article 9 of the Constitution to observe international law) that the Constitutional Tribunal's system and procedures for its operation are shaped by international law.

Undoubtedly, proceedings before the Constitutional Tribunal must meet the requirements of a reliable procedure, but this thesis does not have to be derived from the provisions of international agreements or ECHR jurisprudence, because this is a consequence first of all, the principles of legalism, secondly - the principles of a democratic state ruled by law. Both of these principles are expressed in the Constitution of the Republic of Poland and these provisions must be the point of reference for assessing whether proceedings before the Constitutional Tribunal meet the requirements of procedural fairness. I believe that knowledge of the constitutional context and the specificity of the Polish constitutional court will allow better assessment of national authorities than international ones, or proceedings before the Constitutional Tribunal are shaped in accordance with the requirements of the rule of law. Therefore, international standards regarding the shape of proceedings before the Constitutional Tribunal expressed in either the international courts' judgments or in international soft law files like opinions, resolutions or recommendations are not binding for the state. They can be used, but their non-inclusion in the process of shaping procedures can not be associated with international sanctions.

The constitution of the Constitutional Tribunal is also an area of influence of international law. It is a constitutional matter belonging to the legislator, which in the judgment of reference number K 32/09 was classified as the sphere of designating the constitutional identity. For this reason, any formulations regarding the shape of the constitutional court system originating from entities representing the international community are not imperative and binding. They can be an inspiration when creating specific legal solutions, but they can not replace or eliminate the sovereign state decision in a given area.

ASf

Membership in the Council of Europe or in the European Union is based on three pillars: the rule of law (rule of law), democracy and human rights. These values are common to the Member States, although the practice shows that they are not always uniformly understood as to detailed solutions. For this reason, it must be stated that the principle of sovereignty and values that make up the constitutional identity of the state is the unbreakable limit that determines the scope of influence of international law. Thus, the source of constitutional solutions for the constitutional court must be constituted by the Constitution of the Republic of Poland, which clearly shapes the system of state power based on the rule of law (Articles 2 and 7 of the Constitution), democracy (Article 2 and Article 4 of the Constitution) and human rights (Chapter II of the Constitution RP, headed by Article 30 of the Constitution of the Republic of Poland).

The above considerations allow to confirm the thesis indicated at the beginning that there are three general areas of influence of international law on constitutional judiciary in Poland. These are the area of adjudication, the system of the Tribunal and procedures for proceedings before this body. The impact concerns both hard law acts and international acts of a non-binding nature (soft law).

The degree of binding by international law is determined by the constitutional principle of observance of binding international law (Article 9 of the Constitution of the Republic of Poland), but it can not lead to a violation of the supremacy of the Constitution of the Republic of Poland. This superiority was expressis verbis specified in legal provisions, which makes it difficult to make such an interpretation that would allow for the formal supremacy of international and EU law over the Constitution of the Republic of Poland. On this supremacy, the constitutional concept of the Polish Constitutional Tribunal is also built, therefore, regardless of the postulates regarding the redefinition of the supremacy principle, in the Polish case, due to its normative nature, some significant modifications to the approach to it are difficult without changing the Constitution. What is more, due to the competences of the Constitutional Tribunal, it alone can decide that legal solutions regulating its organization and procedure (at the sub-constitutional level) are consistent with the Constitution and ratified international agreements. Due to his adjudicating activity, he can therefore designate on the basis of constitutional provisions an impassable framework for the impact of international law on his system and manner of operation.

A constitutional court, interpreting constitutional provisions and indicating the limits of the constitutional identity of the state, may in fact set an acceptable limit on the basis of the Constitution of the unification of international standards by organs and international organizations.

In summary, with reference to the hypotheses presented at the beginning, we managed to determine the following:

1) State sovereignty and constitutional identity have been recognized as criteria that set out to be a non-transferable framework conferring powers on an international body or organization with respect to the judiciary. The system of ensuring the supremacy of the constitution is an element of this identity, which means that the competences of the Constitutional Tribunal can not be exercised by external bodies;

AS

2) the ratio of the existence of the Constitutional Tribunal is the supreme principle of the Constitution of the Republic of Poland. The shape of mechanisms and the choice of a model for the protection of the Constitution depend on the sovereign decision of a given state. The Venice Commission also tended to this position, which in its opinions stressed that it was possible to guarantee the compliance of the law with the Constitution in various ways. To change the decisive approach to the principle of precedence, it would be necessary to amend Art. 8(1) of the Constitution of the Republic of Poland. It would also have to involve an amendment to these provisions that concern the competences of the Constitutional Tribunal;

3) the legislator decided that the state complies with the binding international law and as a subject of international relations is not separated from the international system. The position of international law laid down in the Constitution of the Republic of Poland is important for the scope of cognition of the Constitutional Tribunal and although the legal doctrine raises the demand that any collisions between international and EU law and the national law be settled in the application of law, it must not be forgotten that art. 188 of the Constitution of the Republic of Poland allows the Court to adjudicate on international treaties, moreover from art. 188 point 1, it is sometimes derived that the concept of an international agreement should be interpreted broadly, which means that it could contain acts by certain international entities on the basis of the contracts in question;

4) in CT case-law, there is no clear signal to change the approach to the principle of supremacy of the Constitution. What is more, in cases with an international and EU element, the Tribunal, pointing to the obligation of pro-EU and friendly international law interpretation, clearly emphasizes the supremacy of the Constitution of the Republic of Poland, which does not prevent him from pointing out the paths of resolving any collisions;

5) thanks to the analysis, it was possible to identify areas of influence of international law on the Polish constitutional court and set a constitutional framework for this impact. Insofar as in the decision the Tribunal is bound by the object or pattern of control resulting from international agreements, the guidelines referring to its system, organization and procedure can be treated as an auxiliary source of its activity. There is no legal obligation to use them.

Despite the impact of international law on the Polish constitutional court, which is important in its judicial activity, it should be emphasized that it is the Constitutional Court that is the court of last word in systemic matters and depends on this how the normative and institutional relations will be shaped. It is up to the Tribunal to adjudicate on compliance with the Constitution (and therefore also with the principles mentioned in it) of legal acts, including international agreements.

4. The above-mentioned circumstances prove that the conducted research and their results presented in this monograph have an impact on the development of constitutional law, because they constitute a comprehensive elaboration of one of the important and current issues, which is the impact of international law and EU law on the Constitutional Tribunal. In the theoretical and dogmatic dimension, they indicate a specific model of shaping a given relationship in Polish law and its boundaries.

AS

The conducted research also has a practical and application dimension, because their results will be able to serve as a reference point for entities initiating proceedings before the Constitutional Tribunal and for the Tribunal itself as to the method of acting in matters with an international element. Theses indicated in the study may serve as a support for argumentation in justifying letters initiating the proceedings before the Tribunal and its rulings.

An additional consequence of the conducted research is that the definition of the limits of the permissible impact of international law and EU law on the Constitutional Tribunal may be taken into account in the process of shaping the jurisdiction of the organ by the legislator and legislator.

Discussion of other scientific and research achievements

1. Introductory remarks

The basic area of my scientific interests is constitutional law, but I also take part in administrative law research, including law on higher education and science, as well as interdisciplinary research.

I focus my scientific activity on several areas, the most important of which are

- constitutional judiciary/constitutional justice
- protection of the constitutional status of an individual
- constitutional foundations of the local government system
- autonomy of higher education and freedom of research and teaching.

In addition, as part of interdisciplinary cooperation, I dealt with the ethos of legal professions and public administration as well as the constitutional foundations of sustainable development and the issue of helping dependent people.

I present the results of research in the form of scientific publications, speeches during conferences and seminars and scientific sessions, as well as during trainings.

The full list of postdoctoral achievements after obtaining a PhD degree in legal sciences, including scientific publications, topics of conference speeches and research projects implemented, is included in Annexes 5 and 6.

2. Scientific achievements regarding constitutional justice

From the beginning of my work as a researcher in the field of my interests is constitutional judiciary, and especially the judicial activity of the Constitutional Tribunal and its impact on the state system and the legal system. I analyze constitutional judiciary through the prism of various issues, such as cognition and the scope of the Tribunal's competences, through the manner of proceeding and judicial tools, up to the effects of judgments. In addition, I also examine substantive issues that are the subject of statements of the Constitutional Tribunal, and which affect other branches of law.

Ag

The results of research related to the first area of my scientific activity were presented in the form of publications (monographs, chapters in monographs and articles in scientific journals) and during speeches at nationwide scientific conferences.

I have determined that constitutional review may be carried out according to the material, procedural and competence criteria. The justification for this is the constitutional principles and characteristics of a normative act as a complex of formal and material elements.

The results of research related to the first area of my scientific activity were presented in the form of publications (monographs, chapters in monographs and articles in scientific journals) and during speeches at nationwide scientific conferences (in particular as part of academic conferences of Constitutional Tribunal assistants, Supreme Court and Supreme Administrative Court)).

The basic achievements in a given area are two monographs: a book on scientific achievements: „The impact of international law on constitutional judiciary in Poland - a constitutional perspective" and a monograph „Control of the mode of adoption of the act before the Constitutional Tribunal", Warsaw 2014, Sejm Publishing House, whose publishing reviewer was prof. dr hab. P. Tuleja, which is a significantly modified version of the doctoral dissertation.

Both monographs provide a comprehensive approach to issues related to the activities of the Constitutional Tribunal, the scope of its cognition and legitimacy to act. The first broadly raises the influence of international law on the Polish constitutional court, and the second discusses the issue related to the legitimacy of the constitutional court to control the legislative mode and the constitutional problems associated with it, which have been revealed in CT case law. I have determined that constitutional review may be carried out according to the material, procedural and competence criteria. The justification for this is the constitutional principles and the characteristics of the normative act as a complex of formal and material elements. I also discussed the consequences of the legislative procedure in the Chapter „Effects of the Tribunal's Judgments in the Control of the Mode of Enacting the Act", [in:] „Effects of Constitutional Tribunal Judgments in the Application of Law", ed. M. Bernatt, J. Królikowski, M. Ziółkowski, Warsaw 2013, p. 223-248. I put in it the thesis that it is not possible to transfer the effects of *ex tunc* and *ex nunc* directly in the meaning of civil law to the effects of procedural control of statutes.

Analyzing the constitutional court issues, I considered problems related to the adjudication process, including those related to the case law (*The concept of „settled ruling line" in the Constitutional Tribunal's case law*, [in:] *Uniformity of case law Standard-instruments-practice*, vol. I, Studies and Analysis of the Court Of the Supreme Scientific Materials, edited by M. Grochowski, M. Raczkowski, S. Żółtek, Warsaw 2015, pp. 33-49); justifications of the Constitutional Tribunal's judgments, paying attention to their role in the implementation of publicity (*The principle of openness and justification of the Constitutional Tribunal's decision*, „Studia Prawnicze" 2014, No. 4, pp. 87-97), and also the judicial tools of the Tribunal (see, for example, the *Test of Specificity as a Tool judgments of the Constitutional Tribunal*, [in:] *Constututional Justice, Theory and Practice*, ed. M. Granat, Warszawa 2018, pp. 163-188). A common conclusion from the research conducted in this area is that the

ASf

Tribunal did not develop tools that would ensure uniformity of case-law and a certain common method of action in justifying its decisions or carrying out various types of tests (eg specificity or proportionality). Although some guidelines are formulated in jurisprudence, they are not applied equally to all adjudicating panels.

In addition, together with W. Federczyk, I conducted research on the Cognitive Tribunal's jurisdiction to examine normative acts that are not a source of universally binding law (*The jurisdiction of Constitutional Court to study normative acts that are not a source of universally binding law and other legal acts - selected issues from case law*, [in:] *Control of the constitutionality of law a application of law in the jurisprudence of the Constitutional Tribunal, the Supreme Court and the Supreme Administrative Court*, ed. J. Królikowski, J. Podkowik, J. Sułkowski, Warsaw 2017, pp. 67-97. Co-author W. Federczyk). Analyzes revealed a multiplicity of issues, however, we have established that the basic criteria for conducting inspections in a given area is the normative feature of the act and in the case of the conclusions of art. 188 point 3 of the Constitution, the fact that the act was issued by the central state organs.

On the other hand, with E. Gierach, I considered the admissibility of the control of the act on the amendment of the Constitution. In the publication *The Act on Constitution Amendment - Selected Problems Related to Constitutional Review*, [in:] *Current problems of constitutional reforms*, edited by S. Bożyk, Bialystok 2013, pp. 221-234, we have found that such control is basically inadmissible. One can only consider whether it would be possible to control the mode of reaching the effect of the act amending the Constitution (procedural control), and if so, it should be considered whether the preventive control also concerns the Act on the Constitution.

I conduct research on the Constitutional Tribunal from a theoretical point of view, but also primarily through the study of its case law. Although the remaining areas of my research do not directly concern constitutional justice, I always try to take into account the perspective of assessing the compatibility of the analyzed solutions with the act of the highest legal force in the state.

3. Achievements regarding the constitutional protection of the status of an individual

The second area of research is the question of the status of an individual. In my reflections on this matter, I focused on constitutional solutions, but my work also includes works related to international human rights protection systems and to other countries' systems. Apart from recognizing the content of given freedoms and rights, I analyze them in the context of acceptable limits and the scope of application of the principle of proportionality (see eg *Conditions of legal interference in human rights in selected countries of Central and Eastern Europe. Considerations about prohibition of excessive interference*, [in:] *Measures of protection human rights in post-socialist countries, selected issues*, ed. A. Frankiewicz-Bodynek, A. Pawlak, Kraków 2015, pp. 39-52). I also take into account the impact of technological development on the understanding of the classically recognized system of human rights protection.

Two issues occupy a special place from the above-mentioned area. These are:

ASP

1. religious freedom, which I analyze together with M. Osuchowska in the international and comparative dimension (see *United Nations Organization on violation of religious freedom of Christians*, [in:] *Global problems of protection of human rights*, ed. E. Karska, Warsaw 2015, p. 147-164. Co-author M. Osuchowska, *Constitutional foundations of religious freedom in selected European and Latin American countries*, „Polish Review of International Relations" 2015, no 5, 89-105. Co-author M. Osuchowska) and independently in the national dimension from the perspective of the Constitution Of the Republic of Poland and the jurisprudence of the Constitutional Tribunal (*Standards of religious freedom in the jurisprudence of the Polish Constitutional Tribunal*, [in:] *Dimensions of religious freedom in contemporary Europe*, ed. P. Szymaniec, Wałbrzych 2017, p. 222 -236).

Activities in this area were the subject of speeches at conferences on the protection of human rights. I pay special attention to the limits of religious freedom in the individual dimension and the state's duty to protect this human right.

2. protection of privacy, information autonomy and access to public information. I carried out the majority of research in this area as a contractor headed by prof. UKSW dr hab. G. Szpor grant from the National Center for Research and Development „Model of regulation of publicity and its limitations in a democratic state of law". As part of this project, I took part in scientific conferences on the subject of the right to information or publicity. I have also prepared chapters in monographs (*Evaluation of the scope of disclosure restrictions (restrictions on access to information) from the point of view of the European case law standards, in particular the doctrine of balancing interests and values*, [in:] *Transparency and its limitations Volume III Effectiveness of regulation*, edited by G Szpor i Z. Kmieciak, Warsaw 2013, pp. 21-39, *Public restriction of publicity in the light of the Constitutional Tribunal's case-law - classification, analysis, evaluation*, [in:] *Publicity and its limitations, Vol. IV, Relevance of jurisprudence*, ed. G. Szpor, ed. M. Jaśkowska, Warsaw 2014, pp. 274-304, *Constitutional conditions for the re-use of public sector information*, [in:] *Transparency and its limitations. Volume V. Access and Use*, G. Szpor (ed. scientific), A. Piskorz-Ryń (ed. volume), Warsaw 2015, pp. 185-199).

In addition, I participated in the international ODYSSEY GIS conference, whose materials are indexed on the Web of Science. As part of the conference together with prof. dr hab. M. Michalski, we prepared the publication *Historical-cultural and legal aspects of the right to privacy and spatial information*; A GIS ODYSSEY 2018 is a Croatian Information Technology Society - GIS Forum, 2018, pp. 354-363. In the publication, I put forward the thesis that the provisions on privacy protection regulated at the constitutional level and in international human rights agreements cover the protection of privacy and informational autonomy related to the life of an individual in cyberspace. Therefore, it is possible to derive from the present content of human rights protection against threats resulting from the functioning of the individual in the digital reality.

Regardless of the above-mentioned topics, I dealt with issues such as the constitutional status of refugees and their protection (a report during a nationwide conference) or the right to a reliable procedure (see eg *Right to a reliable procedure and extraordinary remedies in the Code of Civil Procedure - perspective of the Constitutional Tribunal's case law*, [in:] *Civil*

PSP

proceedings - changes introduced and proposed, edited by G. Jędrejek, S. Kotas, F. Manikowski, CH Beck, Warsaw 2019, pp. 279-295).

I analyzed the impact of the European Convention on Human Rights on the jurisprudence of the Constitutional Tribunal, which was the beginning of research on my monograph on the impact of international law on constitutional justice (see *Influence of the European Convention on Human Rights on the adjudication activity of the Polish Constitutional Court*, [in:] *Influence of the European Convention on Human Rights in systems for the protection of human rights and international criminal and humanitarian law*, ed. E. Karska, Warsaw 2013, pp. 218-235.

4. Achievements regarding the constitutional basis of the local government system

The third area of my research is territorial self-government described from the constitutional perspective. In my publications, I take the position that it is a part of a state that can not be attributed to such entities as private law entities (*Legal subjectivity of communes and the protection of human rights*, [in:] *Unity of norms and values, a set of studies dedicated to Professor Maria Gintowt-Jankowicz*, ed. Z. Cieślak, W. Federczyk, K. Sawicka, J. Pastwa, Warsaw 2014, pp. 250-271).

At the same time, I pay attention to the scope of self-government and the principles of transferring specific tasks. Also in this case I would like to point out that the limits of independence are determined by the Constitution, and the territorial self-government is an entity participating in the exercise of public authority and performing public tasks (*Designation of tasks of public authority and independence of local government*, [in:] *New phenomena in public administration. Seminar of Axiology of Administration*, edited by Z. Cieślak, A. Kosieradzka-Federczyk, Warsaw 2015, pp. 215-234, *Independence as a constitutional perspective of territorial self-government - challenges, opportunities and threats* [in:] *100 Years of Polish administration. Experience and perspectives* , edited by W. Federczyk, Warsaw 2018, pp. 413-440).

5. Achievements regarding the autonomy of higher education and the freedom of research and teaching

The fourth area of research is the freedom of research and teaching in the perspective of university autonomy. This is the result of interests carried out within the framework of scientific projects, in particular the task of „Lawyer education system and activities related to combating crime and assistance to crime victims" under the project „Operation of transitional justice, legal and civic education as part of the system for counteracting the causes of crime" (10/04/2018-31/08/2019), as well as tasks carried out at the Cardinal Stefan Wyszyński University related to the internal system of quality assurance of education, participation in the process of parameterization, membership in the UKSW Senate and in faculty and general university committees. In particular, the changes taking place in the area of higher education in Poland and the world form the basis of my reflections on the scope of university autonomy and its models in the area of science and education.

ASp

The following publications should be indicated as achievements in this area. *University status in the Polish legal system*, [in:] *Quo vadis universitas? Diagnosis and development scenarios*, edited by S. Zaręba, M. Zarzecki, Warsaw 2016, pp. 83-101; *The role of the university in terms of realisation of freedom of teaching and freedom of scientific research – Polish case*, Espaço Jurídico Journal of Law, 2017, pp. 2, 347-358; *Some remarks on the autonomy of higher education institutions - a constitutional perspective*, [in:] *The State Constitution The Law A memorial book devoted to the Judge of the Constitutional Tribunal, Professor Henryk Cioch*, ed. J. Przyłębska et al., BTK Publishers, Warsaw 2018, pp. 425-442.

A special publication is the article *The shaping of the higher education system in Poland by way of executive and internal acts - the scope of permissible regulation*, „Criticism of law. Independent studies on the law" 2018, vol. 10, no. 2, pp. 320-335 published in two language versions (Polish and English). In this study I raise the issue of doubts related to the possibility of regulating important issues in the field of higher education in the regulation. I put forward the thesis that the higher education system is largely based on executive acts that regulate important issues that should be subject to statutory regulation. This raises doubt as to the compatibility of such a distribution between the matter of the act and the regulations with the Constitution of the Republic of Poland.

6. Achievements related to research cooperation in interdisciplinary teams

In addition to the above-mentioned ranges in which I conduct research, I want to identify separately three specific issues that are related to the above areas, but it is legitimate to distinguish them as separate topics of my scientific activity. The research indicated below and related scientific achievements are interdisciplinary. They are conducted in particular in cooperation with sociologists, as well as psychologists, educators and philosophers.

The first area concerns the issues of the professional ethics of lawyers and administration employees (*Legal aspects of the professional ethos of public administration employees*, [in:] Public Service.] *Work ethos of civil servants in Poland*, edited by S. Zaręba, M. Zarzecki, Warsaw 2015, pp. 37-54 Co-authors W. Federczyk, A. Kosieradzka-Federczyk).

I conduct research in this area together with scientists from the Institute of Sociology at the Faculty of Historical and Social Sciences of UKSW. They combine empirical and legal issues. The result of the research is a monograph, of which I am a co-editor of *Law as a profession and vocation. Deontology and professional ethos of Polish lawyers in sociological research*, Warsaw Sociology Publishers, Warsaw 2018, pp. 288 (editing the monograph together with SH Zaręba, M. Zarzecki) and chapters in the indicated monograph, also including the constitutional perspective of the legal professions (*Constitutional basis for performing professions) law - selected issues*, [in:] *Law as a profession and vocation. Deontology and professional ethos of Polish lawyers in sociological research*, ed. A. Syryt, SH Zaręba, M. Zarzecki, Warsaw Sociological Publishers, Warsaw 2018, pp. 189-200). In these studies, I take into account the constitutional context and constitutional principles related to the freedom to practice and care for the common good. A common conclusion for the conducted research is, regardless of how the ethical codes of particular professions are shaped, shaping certain

ASP

attitudes in the performance of the profession is not an issue that can be imposed by legal provisions. Other non-legal factors influence it.

The second area to the subject of sustainable development, which I do not limit only to environmental protection, but I notice with it the principle and the measure of weighing values in the wider perspective, including those related to the development of technology (*Access to public information resources and the principle of sustainable development*, [in:] *Publicity and its limitations, Volume V. Access and Use*, G. Szpor (editor's note), A. Piskorz-Ryń (ed. Volume), Warsaw 2015, pp. 23-34; *Ethical and legal conditions for sustainable development-introduction to research*, „Zeszyty Naukowe Politechniki Śląskiej. Series: Organization and Management" 2018, z. 123, pp. 197-209. Co-author A. Klimska).

The third issue is the professionalization of services supporting dependent people. As part of the development grant, I was a contractor in the project entitled „Professionalization of assistants' and care services for dependent persons - new education and care standards", WND-POWR.02.08.00-00-0018/17. I worked as part of Task No. 4 as an expert in legal analysis. I conducted my research by analyzing the constitutional and international foundations of the functioning of dependent people. I also analyzed case law in this area and made a foreign study visit to Vienna. The results of the research were presented in a paper prepared with Dr. M. Luty-Michalak at an international scientific conference.

Together with the project's expert team, I prepared a draft legislative assumptions for the Act on this subject. As part of the team, I was responsible for verifying the compliance of the proposed solutions with the constitution and international standards for the protection of human rights. I have also prepared a scientific article *Constitutional grounds for the protection of dependent people*, „Studia nad Rodziną" 2018, item 5, pp. 13-32.

Aleksandra Syp