

Dr. Łukasz Prus  
Assistant Professor  
Section of Comparative Public Administration  
Department of Law, Administration and Economics  
University of Wrocław, Poland

## **The Rule of Law as a Pillar of Transition Process in Poland**

### **1. Introduction**

The paper concerns a problem which usually arises when the new constitutional law meets and clashes with the old administrative law from the previous system in the period of the transition process. Especially it is a problem in case of "younger" democracies with a new constitutional order inherited authoritarian administrative law from a previous dictatorship (e.g. Germany, Spain, Portugal, Greece, Eastern and Central Europe, etc.). How to balance old administrative rules and new constitution values? Whether the new constitution brings *katharsis* and removes rules that depart from the new constitutional requirements. Or, as the German Constitutional Court established after II WW, old rules should not be considered illegal if they can be interpreted in accordance with the new constitution (BVerfGE 2, 266 [267-268]).

Relation between the new constitution and the old administrative law allows to distinguish two models. The first model is called "the Constitution as a motor" or "the Rule of Law as a motor". Here the rule of law will be the starting point for, and driving force behind, the new constitutional order. The constitution is a major tool for legal regeneration. Constitutionalization is, therefore, a dynamic, transformative process. All expectations for a new administrative law are projected in the Constitution and its main judicial guardian, the newly-created Constitutional Court (Heuschling, 2017, p. 540). From this point of view, the role of the new Constitutional Tribunal is particularly important here to give a new - liberal, democratic and/or social - impulse to the "old" administrative law (e.g. Germany after World War II).

The second model is called "the Constitution as a treasury" or "the Rule of Law as a treasury". This is a characteristic of "old" democracies (e.g., France) during the political change. This model presents the rule of law principle as a final point. The Constitution is not supposed to reform and revolutionize old administrative law. Its main purpose is to consolidate it. The new constitution incorporates solutions that have already proved beneficial in practice. This model results in a slightly different relationship between the newly-created

Constitutional Court and the typically far older, administrative court. Here the new Constitutional Court may accept the concepts, methods and solutions of the older and wiser administrative courts (e.g. the tradition of the jurisprudence of the Prussian administrative court from the 19th century). That was in France, at the beginning of the Fifth Republic, the *Conseil d'Etat* took under its wing of the new *Conseil Constitutionnel* (Heuschling, p. 540-541).

The paper analysis the role of the rule of law in transition process in Central and Eastern Europe as exemplified by Poland. In case of Polish transition process the following questions are crucial ones:

1. Which model was adopted in Poland?
2. What is the purpose of the new constitution in the transition process - transformation or consolidation of the Pre-Existing Administrative Law?
3. How the rule of law was shaped during the transition process in Poland?
4. What is the content and elements of the principle of the rule of law in Poland?
5. What is the role of the rule of law in framing the constitutional order and the philosophy of the functioning of the administration?
6. Is the rule of law in crisis in Poland these days? If yes, why?

## **2. The path towards the Rule of Law in Poland after the fall of communism**

The concept of the rule of law establishes a system of values that must be respected by a country that wants to become democratic. These are requirements commonly known in contemporary democratic countries. They are less obvious in countries undergoing transformation, e.g. from a communist to a democratic state like in Polish case. This transformation requires most of all a change in the philosophy of law. It usually concerns two areas: political and economic. Political area can be analysed in three groups. The first is rules regarding the relationship between the individual and the state. It is about the guarantee of individual autonomy. The second group concerns the relationship between the state and society by guaranteeing free elections and political pluralism. The third group concerns the structure of public bodies that respect the separation of powers (tripartition of power) and the judicial independence. Economic area concerns the transition process to a free market economy (Wyrzykowski, 1991, p. 19-22). All these factors were taken into account in the transition process in Poland. However achieving the rule of law in Poland was long and tortuous journey.

The path towards the rule of law in Poland after the fall of communism began after the elections in June 1989. It was a victory for the democratic movement *Solidarność*. It forced changes in the political system. The communist constitution of 1952 provided the monopoly of the communist and the satellite parties. Moreover, the communist economic system caused a huge economic crisis. Thus, impulsive legislative actions were taken to change centrally planned economy into a free-market economy to counteract hyperinflation in Poland in 1989. However, new and liberal solutions were contrary to the communist constitution of 1952 (Ujazdowski, 1989, p. 261). Therefore, a change in constitutional philosophy was needed. Such a constitutional amendment would avoid the allegation of violation of the constitution by rules already adopted which aim was renovation the economy (Wyrzykowski, 1991, p. 17). However, in the opinion of the members of parliament it was not time for a new constitution. It was a time to repair the economic system. The preparation of the new constitution required distinctive approach and could not be done in a hurry (Suchocka, 1989, p. 18). However, the dynamics of economic, social, political and legal changes required at least an amendment of the existing constitution. It was supposed to be a temporary amendment until the economy was repaired and a new constitution was prepared.

By the Act of 29<sup>th</sup> December 1989 amending the constitution (hereinafter the "December amendment"), it was introduced the freedom to conduct a business, right to private property, the principle of nation sovereignty, representative democracy and political pluralism. Finally, the December amendment introduced the value of the rule of law in the liberal version to Polish reality. On its basis, a new formula of the state system was regulated. According to the new version of art. 1 of the Constitution, the Republic of Poland shall be a democratic state ruled by law and implementing the principles of social justice. It was an "antidote" and replaced the previous version of this rule, which said that Poland was a socialist (communist) state. It was not only correction or modification of the system but it was the milestone of a significant change. This proclamation of the rule of law has marked the border between the old and the new system. From that moment the purpose of law and state was to guarantee the fundamental rights of individuals as well as equality and private property. As a result of the December amendment, the Polish dictionary of political and constitutional terms, which for 45 years after the war was different than in the Western Europe, became a dictionary similar to those from Western Europe (Morawska, 2003, p. 25-54). On the one hand, it was a symbol of the end of communism in Poland and means the self-binding of public authority by the standards of democratic rule of law. On the other hand, it was a challenge for Polish constitutionalism. It required redefining

the function of the state towards the rule of law. The Constitutional Tribunal played a key role in this regard. In other words, politicians gave the Tribunal power to find and establish standards of the rule of law in the transition process.

The legal order in Poland after the fall of communism was not homogeneous because the rules adopted in communism were still in force. Thus legal system was incoherent and in a state of permanent transformation. Coherence could be achieved in two ways. First of all, by removing old rules and replacing them with new ones tailored to the purposes of the new constitution. Secondly, through redefinition and a new interpretation of old provisions through the lens of new constitutional requirements. Eventually, on the one hand lawmakers rejected the revolutionary method of building a new legal order from scratch (the revolution and the rule of law are irreconcilable –Łętowska, 1990, p. 12). On the other hand, lawmakers introduced the principle of the rule of law into the constitution and provided the right to determine its standards by the Constitutional Tribunal. This model was confirmed by the Tribunal in one of its judgments. It stated that the problem of relations between new constitutional requirements and the guarantee function of legal order becomes particularly significant in the periods of political transformation. The transition from an authoritarian state to a rule of law can take extraordinary forms. However, according to the tribunal opinion in case of Polish transition, all rules must be interpreted in the spirit of the new legal philosophy, i.e. the rule of law. In other words, the provisions of the previous regime are still binding but they must be reinterpreted in accordance with the intention of the new constitutional order. However, if rules from the previous system violate the rule of law, it must be declared unconstitutional by the Constitutional Tribunal. The Tribunal challenged illegal rules and interpreted fundamental rights. The legislator has constantly learned from the tribunal the standards of the rule of law. The lawmakers took more and more caution when preparing draft laws (Izdebski, 2007, p. 88-90).

Thus the rule of law became a pillar of transition process in Poland. The dynamic and creative interpretation of this principle by the Tribunal was a response to the deficit of constitutional legislation in 1989-1997 (when the new constitution was adopted). However, in Polish political and legal thought there was no clear concept of the rule of law after the fall of communism. How has the Tribunal reconstructed these standards? What was its sources of inspiration?

### **3. Sources of inspiration**

The December amendment introduced a system of values that had been rejecting by communism for forty years. This concept was not well known in Poland. There was no centre

for political thought that would frame the standards of the rule of law (Wronkowska, 1995, p. 64). In these circumstances, the natural consequence was that the Tribunal drew inspiration from the constitutional traditions of Western European countries. The need for comparative analysis and search for similarities and differences in the resolution of legal problems within foreign constitutional traditions was a practical necessity. German heritage of *Rechtsstaat* played a key role in the case of Polish transformation (*Rechtsstaat* principle is Germany's own version of the Rule of Law value). It was not a conscious choice of the legislature. However, it had a sociological justification because we had the bigger knowledge of the concept of the rule of law from the nearest neighbour (Wronkowska, 1995, s. 64). Moreover, many Polish professors and judges were in Germany under the Humboldt foundation programs before the transformation (Morawska, 2003, p. 52-53). In the first years of Polish transformation, the Polish Tribunal found in a similar situation as the German administrative and constitutional judiciary in the post-war years. The Polish Tribunal also had to review the old rules in the spirit of the new legal order. The experience of the German judiciary was invaluable. Some arguments of the Polish court were identical to previous judgments of the German constitutional court (Izdebski, 2007, p. 88, Prus, 2018, p. 90-91).

The Polish legislator often referred to the classical definition of the rule of law whose author was the German scholar K. Stern (Wyrzykowski, 1991, p. 18, Morawska, 2003, s. 53). K. Stern offers broad condition of existence of the *Rechtsstaat* based on chain of values: *constitution-law-liberty-justice-legal certainty*. According to his definition, rule of law indicates exercises of the public authority on basis of the Constitution and laws that are formally and materially compatible with the Constitution to protect values such as human dignity (*Menschenwürde*), freedom (*Freiheit*), justice (*Gerechtigkeit*) and legal certainty (*Rechtssicherheit*). According to the author's opinion, this definition is general and requires clarification. K. Stern distinguishes the specific values of general principle of the rule of law:

1. The constitutional state, meaning that constitution is a supreme act,
2. Dignity, liberty and equity,
3. The separation of power and checks and balances system,
4. Legality, indicating that legal acts provides grounds and limits for all actions of state,
5. Judicial protection, meaning the guarantee of extensive and effective protection by independent courts,
6. System of responsibility and accountability,
7. Proportionality and predictability of state actions (Stern, 1984, p. 781).

The purpose of the rule of law is to protect the individual against arbitrary public authority and to guarantee legal certainty (). According to K. Stern, the rule of law from the negative side is simply a denial of a totalitarian state. On the positive side, it is a set of rules established to protect the autonomy of the individual against public authority. The Polish Tribunal referred to this understanding of the rule of law. The German idea was a signpost for the Polish Tribunal. However, the German and Polish concepts of the rule of law are not identical for the reasons described below.

It is interesting that the Constitutional Tribunal not only referred to foreign constitutional traditions. A large part of the constitutional standards of the rule of law framed by the Tribunal was inspired by the earlier case law of the Polish Supreme Administrative Court (Zdyb, 2010, p. 946). The symbol is that the Tribunal in the first ruling referred to the case law of the “older and wiser” Supreme Administrative Court. In 1960 was adopted the Code of Administrative Procedure which regulates the general principles of administrative law. Some of these principles have a huge axiological potential (e.g. principle of legitimate expectations which is similar to Germany's concept *Vertrauensschutz*). The values enshrined there could not be implemented for a long time. It was necessary to wait until the establishment of the administrative judiciary in 1980. From that moment administrative courts could discover the potential of general principles even before amendment of the constitution. The most important standards arising from the general principles include:

- 1) legality, the Supreme Administrative Court determined the legal basis for interference in the legal situation of the individual which allowed constitutional regulation of the sources of law;
- 2) respecting the objective truth principle as a key element in the implementation of the constitutional principle of social justice;
- 3) the obligation to balance individual and public interests which involves the protection of constitutionally protected rights;
- 4) legal certainty in administrative law;
- 5) identifying the activities of public bodies in terms of public service
- 6) right to the court (Zdyb, 2010, p. 947).

The early case law of Supreme Administrative Court concerns general principles of administrative law later became the basis for building standards of the rule of law by the Constitutional Tribunal.

#### 4. The Rule of Law in Poland

The Constitutional Tribunal stated that the principle of the rule of law has no uniform content. The rule of law is the umbrella principle and agglomerates a substantial number of other principles. In other words, this value can be determined by enumerating and describing specific principles, such as legal certainty, legitimate expectations, proportionality, etc. (Kmieciak, 2000, p. 15-17). The Tribunal before the adoption the new Constitution in 1997 determined most of these sub-principles. Two years later, the Tribunal noted that, on the one hand many principles were unwritten constitutional principles. However some of them currently can be found in the text of the new Constitution. On the other hand, a large part of the content constituting the basis of the rule of law has not been written separately in the new Constitution. This content can still be reconstructed from the value of the rule of law. The rule of law may be the criteria of constitutional review wherever there is no specific constitutional principles or there is a conflict between them (Izdebski, 2007, p. 89).

According to the case law, the rule of law is determined by the following detailed principles:

- 1) Legitimate expectations which includes the principle of a decent legislation,
- 2) Legal certainty,
- 3) Vested rights,
- 4) Agreements must be kept (*pacta sunt servanda*),
- 5) Prohibition of retroactivity, [SEP]
- 6) *vacatio legis*,
- 7) Legality of offences, penalties and sanctions (*nullum crimen, nulla poena sine lege*),
- 8) Social justice,
- 9) Proportionality,
- 10) Dignity,
- 11) Right to privacy,
- 12) Protection of human life,
- 13) Right to a court (Izdebski, 2007, p. 89; Kmieciak, 2000, 17-19).

The principle of the protection of legitimate expectations was determined at the earliest. Further principles were discovered from legitimate expectations case by case. Thus, this principle is a key element in the interpretation of the rule of law in Poland. There the Tribunal has frequently inspired by the German concept chain of values *Rechtstaat* (the Rule of law)-*Rechtssicherheit* (Legal Certainty)-*Vertrauensschutz* (Legitimate Expectations), and

case law of the Polish Supreme Administrative Court regarding legitimate expectations (Prus, 2018, p. 89-94).

The rule of law requires that law must be clear, available and stable. The legal order should be designed in such a way that everyone can predict legal effects of their behaviour and the conduct of public authority. The law cannot be a trap for the individual. Here relevant is the requirement of legal certainty and the durability of legislative and administrative decisions because once acquired right cannot be annulled or changed in an arbitrary manner. The state and law have to meet the requirement of predictability, which is combined, with the autonomy of the individual (Kmieciak, 2000, p. 17).

The principle of agreements must be kept (*pacta sunt servanda*) is also related to legitimate expectations. This principle applies to the social security system. The Tribunal has recognized that this system is based on a social contract grounded on the insured person's confidence that if he/she fulfils certain conditions and after a statutory period, he/she will receive social benefits (Kmieciak, 2000, p. 20, Morawska, 2003, p. 250-252).

An important element of the rule of law and legitimate expectations is also obeying by the legislature the principle of a decent legislation, which requires a prohibition of retroactive of law. The latter principle prohibits the application of the new law to circumstances and events that took place under the old law. An exception to this principle was e.g. a change in the system of state. The Tribunal found that the retroactivity of the new law on take over the communist party's property was justified. The purpose of this retroactivity was to neutralize the effects of acts done in a harmful way by this party (Morawska, 2003, 229-242). In addition to the *lex retro non agit* principle, an important requirement of the rule of law and the principle of a decent legislation is *vacatio legis* principle. This concept refers to the period between the promulgation of a law and the time the new law takes legal effect. The rule of law requires that amendment, which has negative effects on an individual, should be implemented after the end of the transitional period. The case law shows that the minimum transitional period should be 14 days (Morawska, 2003, 242-250, Kmieciak, 2000, p. 18). Legal certainty and the principle of a decent legislation also require to obey the principle the legality of offences, penalties and sanctions (*nullum crimen, nulla poena sine lege*). This principle implies that legislation must define clearly offences, criminal penalties and administrative sanctions, which they attract (Morawska, 2003, p. 225-229).

The Polish Constitutional Tribunal also linked the principle of the rule of law with the principle of social justice. The latter principle is a program directive that defines the activity of public authority in internal relations. The Tribunal often describes this principle in words:

each according to his/her ability, to each according to his needs and the balance between burdens and benefits (Kmieciak, 2000, p. 19-20).

In the transition process until the adoption of the new Constitution (1997), the principle of proportionality was not regulated by constitution rules. However, the Constitutional Tribunal recognized the principle of proportionality as an expression of the principle of legitimate expectations. The Tribunal ruled that in the rule of law, the reduction of individual rights can only be introduced to the necessary extent and if the constitution provides it. Such a reduction cannot violate the essence, the core of the individual's rights. It follows from the case law that the principle of proportionality does not constitute an absolute prohibition on interference into individual rights. For instance, such interference is legitimate if economic interests justify it. However, its scope and form should be adequate to its aims. If the purpose can be achieved by two measures, which one of them is unfavourable for the individual, the more favourable for the individual should be chosen (Morawska, 2003, p. 283-290; Kmieciak, 2000, p. 18).

Another element of the rule of law is the protection of human dignity. The Tribunal identifies this principle with the protection of reputation and integrity. Any interference by the public authority in dignity can be made on the basis of law. A further element of the rule of law is the right to privacy, which means that only the individual can decide about the scope of sharing information about his/her life with others. In the rule of law principle the Tribunal has found the right to life, which is protected from the moment of conception (Morawska, 2003, 290-339).

The right to the court was not regulated by constitutional provisions of 1989-1997. However, the Tribunal has recognized that one of the fundamental requirements of the rule of law is the right of citizens to have access to the court. In the opinion of the Constitutional Tribunal, in any case, if rules allow the interference of public authority into the rights of an individual, he/she should have the right to a court. Moreover, the rule of law requires guarantees for the principle of judicial independence, which means independence of judges from the legislative and executive power. Legal guarantees of tenure of judges were recognized by the Tribunal as the basis for judicial independence. The Tribunal does not exclude the possibility of dismissing a judge if he/she is unable to practice the judicial profession or there are circumstances questioning his/her impartiality. However, the rules that regulate conditions of dismissing of a judge must respect the principle of the separation of powers and judicial independence (Morawska, 2003, p. 271-283; Kmieciak, 2000, p. 18-19).

## **5. The Rule of Law Crisis in Poland**

The above analysis shows that the Constitutional Tribunal played a key role in the process of implementing the value of the rule of law into Polish constitutional order. In other words, the Constitutional Tribunal was a co-creator of new system after the fall of communism. The Tribunal framed limits of the activity of public authorities. Standards determined in case law bind parliament and government. However, in the opinion of the right-wing parties, this interpretation of the rule of law was excessively concerned on the protection of vested rights. In their view, this doctrine petrified the influence of the former elite (Kaczyński, 2010, p. 222-229).

Before the 2015 elections, previous Parliament elected three new judges to replace those whose term would end after the elections. Right-wing parties won election in 2015. The newly elected parliament invalidated the previous election Tribunal judges and elected in their seats new judges. The newly elected Government and Parliament referring to the nation's will and theory of Parliament supremacy, adopted a series of legal acts aimed to reorganize the judicial system in Poland. The Prime Minister refused to publish in the Official Journal the Constitutional Tribunal judgments on unconstitutionality of selected acts that had been adopted by the parliament in 2015 and 2016 (Ziółkowski, 2018, p. 76-77). Moreover, Government strengthened its influence on the National Council of the Judiciary, which selects judges. The government tried to affect on the composition of the Supreme Court. These situations are described as the Rule of Law Crisis. This term denotes a situation of actual changing constitutional order without formal amendment to its text and content (von Bogdandy, et al., 2018, p. 2). This phenomenon may endanger the traditional separation of power and fundamental rights, especially right to the court. It requires redefining the check and balance system of separation of power and creating mechanisms for the enforcement of constitutional rules (e.g. enforcing the obligation to publish the judgment of the constitutional court). Maybe we should start the debate about creating a new discipline of law - enforcement constitutional law. Detailed analysis of these issues is beyond the framework of this paper.

## **6. Conclusion**

The main purpose of this paper was to find an answer to the question which transformation model was adopted in Poland after 1989 and how the new constitutional order

changed pre-existing administrative law. Two models have been distinguished in the introduction: "the Constitution as a motor" and "the Constitution as a treasury". *Prima facie* it can be assumed that the first model was adopted in Poland. Lawmakers amended the Article 1 of the Constitution of 1952 in such a way that introduced the provision that the Republic of Poland shall be a democratic state ruled by law and implementing the principles of social justice in place of the rule that Poland was a communist state. The value of the rule of law was introduced to the Polish constitutional order to ensure the legality of transition in the political and economic system. At the beginning the value of the rule of law seemed to be something foreign and unknown. However, it became synonymous to standards determining the action of public authorities and the legal situation of the individual. The Tribunal gave a new – liberal and democratic - impulse to the "old" administrative law. Nevertheless, the Constitutional Tribunal was not drawing from the vacuum elements of the rule of law. The Polish Tribunal drew inspiration from various treasures, especially from the German constitutional tradition. Furthermore, the Tribunal accepted some of concepts of the older and wiser Polish administrative courts. Summing up, on the one hand, the value of the rule of law was "a motor", driving wheel for development of new constitutional order. On the other hand, The Constitutional Court, as a 'newbie', derived from treasures: German legal heritage and wiser domestic administrative courts. Thus it was a hybrid model.

Polish Tribunal case law framed the constitutional order and philosophy of the functioning of the administration in Poland. Its binding force is comparable to the force of the constitution's written text. The Tribunal became a co-creator of public order. However, in the view of some, such a role of the tribunal can put the brakes on government reforms. This led to a crisis of the rule of law in Poland and an attempt of changing constitutional order without formal amendment. This in turn resulted in hitherto unknown challenges in the field of guarantee and enforcement of the separation of powers and judicial independence.

## Reference list

1. von Bogdandy A., Bogdanowicz P., Canor I., Taborowski M., Schmid M. (2018). Guest Editorial: A Potential Constitutional Moment for the European Rule of Law – The Importance of Red Lines, *Common Market Law Review*, 55/4 (2018).
2. Heuschling, L. (2017). The Complex Relationship Between Administrative and Constitutional Law. In A. von Bogdandy, P.H. Huber, & S. Cassese (eds.) *The Max Planck Handbooks in European Public Law*, vol. 1. *The Administrative State*, (pp. 493-556) Oxford, UK: Oxford University Press
3. Izdebski, H. (2007). *Fundamenty współczesnych państw (Foundations of Modern Countries)*. Warsaw, PL: LexisNexis
4. Kaczyński, J. 2010, Czy Polska jest Państwem Prawa? Wykład na Uniwersytecie Jagiellońskim (Is Poland a State Ruled by Law? Lecture at the Jagiellonian University), from [pressje.pl, https://pressje.pl/media/pressje\\_shop/article/article\\_issue\\_7.pdf](https://pressje.pl/media/pressje_shop/article/article_issue_7.pdf), access date: 15.09.2019
5. Kmiecik, Z., *Ogólne Zasady Prawa i Postępowania Administracyjnego (General Principle of Administrative Law and Administrative Procedures)* Warszawa, PL, Wydawnictwo Prawnicze PWN (Legal Publisher PWN)
6. Łętowska, E. (1990), *Sprawozdanie parlamentarne Rzecznika Praw Obywatelskich. (Parliamentary Report of the Ombudsman)*. *Państwo i Prawo (State and Law)*, (p. 12)
7. Prus, Ł. (2018), *Ochrona uzasadnionych oczekiwań jako zasada ogólna europejskiego prawa administracyjnego (Protection of the Legitimate Expectations of the Individual as a General Principle of European Administrative Law)*, Wrocław, PL: E-Wydawnictwo. Prawnicza i Ekonomiczna Biblioteka Cyfrowa, Wydział Prawa, Administracji i Ekonomii Uniwersytetu Wrocławskiego (E-Publishing. Legal and Economic Digital Library)
8. Stern K. (1984), *Das Staatsrecht der Bundesrepublik Deutschland. Band I. Grundbegriffe und Grundlagen des Staatsrechts, Strukturprinzipien, der Verfassung (The state law of the Federal Republic of Germany. Volume I. Basic concepts and fundamentals of state law, structural principles, the constitution)*, München DE
9. Suchocka, H. (1989), *Stenographic report on the 14th session of the Parliament of the 10th term of 30.11.1989*, (p. 18)
10. Ujazdowski, K. (1989), *Stenographic report on the session of the Parliament of the 10th term of 29.12.1989*, (p. 261)
11. Wronkowska, S., *Zarys koncepcji państwa prawnego w polskiej literaturze politycznej i prawnej (Outline of the Concept of the Rule of Law in Polish Political and Legal Literature)*. In S. Wronkowska (ed.) *Polskie dyskusje o państwie prawa (Polish Debates about the Rule of Law)*, Warsaw, PL: Wydawnictwo Sejmowe (Sejm Publishing House)
12. Wyrzykowski, M. (1991). *Legislacja – demokratyczne państwo prawne – radykalne reformy polityczne i gospodarcze (Legislation - democratic state ruled by law - radical political and economic reforms)*. *Państwo i Prawo (State and Law)*, 5/1991, (pp. 17-28)
13. Zdyb, M. (2010). *Zasady ogólne Kodeksu postępowania administracyjnego jako fundament kształtowania współczesnego ładu konstytucyjnego (General Principles of the Code of Administrative Procedure as the Foundation for Shaping Contemporary Constitutional Order)*. In J. Niczyporuk (ed.) *Kodyfikacja Postępowania Administracyjnego. Na 50-lecie K.P.A. (Codification of Administrative Proceedings. For the 50th anniversary of C.P.A)*, (pp. 945-958) Lublin, PL: Uniwersytet Marii Curie-Skłodowskiej w Lublinie (Maria Curie-Skłodowska University in Lublin)

14. Ziółkowski, M. (2018). Constitutional Moment and the Polish Constitutional Crisis 2015–2018<sup>1</sup> (a few Critical Remarks), *Przegląd Konstytucyjny* (Constitutional Review), 4/2018, (pp. 76-206)