

## The judicial activity of the Constitutional Tribunal as the institutional legitimization of the legal system during the transformation period in the Republic of Poland

The purpose of this monograph is to analyse the role of the Constitutional Tribunal during the transformation period in Poland. The analysis included in the dissertation allows one to determine whether the judicial activity of the Constitutional Tribunal was the type (model) of the process of legitimization of the legal system, i.e. the process of demonstrating that the new legal system is rightful (legitimate, lawful).

This book consists of a presentation of the previous theoretical arrangements in respect of the issues indicated and the results of the analysis regarding representative judicial decisions of the Constitutional Tribunal issued during the period between the adoption of the Act of 7th of April 1989 on the Amendment of the Constitution of the Polish People's Republic and the day of entry into force of the Constitution of the Republic of Poland of 2nd of April 1997, which is referred to in the monograph as "the relevant transformation period". The analysis makes it possible to distinguish the judicial decisions of the Constitutional Tribunal issued during the transformation which contain argumentation legitimizing the new legal system.

The most important aim of this book is to attempt to characterize the jurisprudence of the Constitutional Tribunal from a new theoretical perspective, which has so far not been broadly discussed. The main intention of this dissertation is therefore to determine whether the judicial activity of the Polish constitutional court was a model of the legitimization of the legal system, which is described as a deliberate communication and argumentation process, in the the course of which it is shown that the new legal system is legitimate (rightful).

Such a purpose implies the need to formulate the following hypotheses to be confirmed:

- 1) The judicial activity of the Constitutional Tribunal during the transformation period is a new model of legitimization of the Polish legal system, i.e. the model of institutional legitimization of the Polish legal system;

- 2) Judicial decisions (including, in particular, justifications of judicial decisions) of the Constitutional Tribunal during the transformation period demonstrated the legitimacy (rightness) of the newly created legal system;
- 3) Referring by the Constitutional Tribunal to the new elements of the Polish legal system, while stating the unconstitutionality or inadequacy of particular regulations, institutions or concepts established in the previous system or expressing disapproval by the Tribunal over these regulations, institutions or concepts, is a delegitimization of the given elements of the "old" legal system.

This publication has been divided into four chapters, within which specific sub-chapters have been distinguished. The first chapter is entitled: "Polish political transformation", the second chapter is entitled: "Legitimization of the legal system in a state of system transformation", the third chapter is entitled: "Judicial activity of the Constitutional Tribunal during the transformation period in Poland" and the fourth chapter is entitled: "Conclusion. The model of institutional legitimization of the legal system".

The results of the analysis of the judicial decisions of the Constitutional Tribunal presented in this monograph confirmed the hypotheses and indicated a new aspect of the Polish transformation period. This aspect was defined in the book as the new model of the process of legitimization of the legal system, i.e. as the institutional legitimization of the new legal system.