

SUMMARY OF THE DISSERTATION

„The Institution of Constitutional Responsibility in Poland as a Guarantee of the Respect for the Principle of the Separation and Balance of Powers. A Critical Analysis”

The institution of constitutional responsibility is one of the instruments for controlling the executive branch in democratic rule-of-law states. Its functioning within a given legal order is linked to the belief, best expressed by J. E. Acton, that all power tends to corrupt, and absolute power corrupts absolutely. Therefore, in a legal system, there should be an institution guaranteeing the observance of the law at the highest levels of power.

The main research thesis of this doctoral dissertation is the persistent and ineffective constitutional responsibility model currently in force in Poland. The doctrine often emphasises that the Tribunal of State, as an organ appointed by the constitutional legislator to adjudicate constitutional responsibility, is a "dead" institution, in need of thorough reform. Moreover, some scholars propose the abolition of the Tribunal of State and the transfer of its competences to the Supreme Court or the Constitutional Tribunal. The dissertation adopts the view that the minimal activity regarding the use of the institution of constitutional responsibility is linked to ineffective legal solutions, i.e., the adopted model of constitutional responsibility, which prevents or significantly hinders the control over representatives of power. Furthermore, the author of the dissertation proposes that this institution be considered through the lens of the principle of the separation and balance of powers. There is no doubt that the activities of the Tribunal of State, whose main function is to adjudicate constitutional responsibility for public officials, are of significant importance for the implementation of this constitutional principle.

The research aim of the dissertation is to propose a rational model of constitutional responsibility in Poland, respecting the historical aspects of existing solutions. The passage of over 40 years since the reinstatement of the Tribunal of State in Poland, and more than 25 years of the current Constitution of the Republic of Poland, is sufficient to initiate a broad discussion on the need to change the current legal solutions.

Formulating the main research thesis as the persistent and ineffective constitutional responsibility model in Poland required adopting the following research hypotheses. First, it was assumed that a change in the model of constitutional responsibility in Poland is not possible within the current constitutional framework and requires amendments to the provisions of the Constitution of the Republic of Poland. Second, it was acknowledged that

the change of the current model of constitutional responsibility must be carried out with respect for the historical aspects of existing solutions, as this would increase the likelihood of acceptance of the proposed changes by political decision-makers. Third, it was assumed that the institution of constitutional responsibility should be considered in the context of the principle of the separation and balance of powers. Fourth, it was recognised that constitutional responsibility cannot be analysed in isolation from the political realities, as the scope and depth of potential changes are linked to the will of the political actors who are subject to this responsibility.

The dissertation consists of five chapters preceded by an introduction. Each chapter begins with an introduction and concludes with findings. Additionally, after each subsection, a summary paragraph is formulated, summarising the findings made.

Chapter one provides a detailed analysis of the origins of the institution of constitutional responsibility. The starting point for the discussion was the consideration of the institution of constitutional responsibility as part of the principle of the separation and balance of powers. Research into the origins of the institution of constitutional responsibility required examining the functioning of impeachment and acts of attainder. Moreover, a key issue was tracing the adaptation of English solutions in the United States. This led to conclusions about the functioning of the institution of constitutional responsibility in a presidential system. The chapter also examined legal solutions concerning constitutional responsibility in the Polish lands during the 16th to 19th centuries. This allowed for the incorporation of Polish constitutional practice when proposing changes to the functioning of the institution of constitutional responsibility in Poland.

Chapter two focuses on the functioning models of constitutional responsibility. The key criterion for distinguishing specific models of constitutional responsibility was the adjudicating body. The selection of states considered also included whether the institution of constitutional responsibility was applied, which allowed for a discussion of the issues arising from the practical functioning of each model. The comparative analysis covered the following countries: Greece, Iceland, Germany, Italy, the United States, Lithuania, and Romania. The experiences of other countries with the application of the institution of constitutional responsibility and the legal regulations adopted in countries with a system similar to Poland's provided a starting point for discussions on the direction of legal changes in Poland.

Chapter three discusses the scope of constitutional responsibility in Poland, both subjectively and objectively. First, the concept of a constitutional violation, the commission of which is linked to constitutional responsibility, was defined. A problem-oriented approach

was applied to analyse the scope of responsibility of all the entities mentioned in Articles 198(1) and 198(2) of the Constitution of the Republic of Poland. The subsidiary use of a historical method allowed a broader perspective on the scope of responsibility of specific entities. Furthermore, referring to historical experiences provided insights into the functioning of adopted mechanisms and highlighted their flaws. The proposed changes, while taking into account historical experiences, ensure continuity in enforcing the responsibility of the highest public office-holders.

Chapter four provides a detailed analysis of the parliamentary stage of the constitutional responsibility procedure in Poland. This includes three phases: from the submission of the initial motion, through the work on the motion in the parliamentary Committee on Constitutional Responsibility, to the decision by the Sejm or the National Assembly to adopt a resolution to bring the accused to trial before the Tribunal of State. Given that most cases in Poland ended at the parliamentary stage, this chapter discusses the constitutional practice concerning the initiation of the constitutional responsibility procedure. It was deemed necessary to conduct an analysis of political and legal culture, particularly among members of the political class.

The final, fifth chapter of the dissertation focuses on the Tribunal of State, the special adjudicating body in the constitutional responsibility procedure. This chapter provides a detailed analysis of the appointment of members of the Tribunal of State and the constitutional and statutory guarantees of independence granted to those appointed to the body. The analysis of constitutional responsibility in Poland also includes discussions on the proceedings before the Tribunal of State. The necessity of addressing the two-instance proceedings and issues related to the selection of the adjudicating panel was considered crucial. A conviction in the constitutional responsibility procedure is linked to the imposition of sanctions. Therefore, it was appropriate to consider the penalties that could be imposed by the Tribunal of State, as well as the legal solutions in force during the interwar period.

The dissertation concludes with a summary of all chapters and outlines the key directions for change, which, in the author's opinion, could positively affect the effectiveness of the current model of constitutional responsibility in Poland. The conclusion also provides answers to the research questions formulated in the introduction.

The leading research method in the dissertation was the doctrinal-legal method, supplemented by the comparative and historical-legal methods. In addition to the analysis of the current legal regulations on constitutional responsibility in Poland, the issue of political culture and legal culture was also discussed in greater detail. The application of the

comparative method was essential for drawing on the experiences and legal solutions of other countries. The multi-faceted examination of the institution in question allowed the author to propose solutions for a rational model of constitutional responsibility in Poland. The historical-legal method was used to describe the origins and evolution of the institution of constitutional responsibility over the centuries, with particular focus on the solutions adopted in the Polish lands.

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Torun, 15.04.2025r.