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Summary of the PhD dissertation

"Eternity clauses of modern constitutions in selected European states and their impact on the constitutional identity of the state"

The main purpose of this PhD dissertation is to demonstrate the impact of "eternity clauses" on the protection of the constitutional identity of the state, which consists of fundamental constitutional principles which are considered important for the state and its system, as well as from the point of view of protecting fundamental human and citizen rights. The subject of the dissertation is a comparative analysis of the nature of eternity clauses established in modern constitutions of selected European countries, as well as demonstration of the actual impact of those clauses on the possibility of changing the basic constitutional principles of the state constituting its constitutional identity.

The analysis and justification of the thesis adopted above requires a detailed consideration of significant research problems, such as the reasons for introducing unchangeable provisions in the Constitution, the subject of eternity clauses, the way they are expressed in the Constitution, the nature of the restrictions on changing the Constitution, their effectiveness at partial and total constitutional amendment.

This work compares the constitutional solutions currently functioning in the basic laws of selected European countries, i.e. the Federal Republic of Germany, the French Republic, the Portuguese Republic, the Czech Republic, the Republic of Lithuania and the Kingdom of Norway. The dissertation will also indicate legal and non-legal factors, including historical and political ones, affecting the establishment of an eternity clause in the Constitution. The result of the analysis of existing solutions will be their evaluation based on the jurisprudence of constitutional courts. Therefore, the work will be based on an analysis of legal acts, court rulings and literature on the subject.

The structure of the work is subordinated to the research challenges presented above and consists of seven chapters.

The first chapter is the theoretical reflection on the concept of the constitution and on the possibility of amending it. This chapter classifies basic laws into rigid and flexible based on the criterion of the possibility of introducing changes to them. Concepts such as application and constitutional validity are also presented. The description was also made of the form, content and structure of the Basic Law. The processes of establishing and amending the constitution were also discussed, their reasons as well as ways of their adoption were indicated. This chapter characterizes the procedure of amending the constitution and sets out the limits of a possible change.

The second chapter deals with explaining the concept of constitutional eternity provisions, as well as their axiology. In the initial part of the chapter, the concept of constitutional norms was clarified, and their types were indicated. The next part discusses the types of unamendable provisions and the nature of the values they protect.

The purpose of the third chapter is to clarify the concept of constitutional identity and to indicate its dimensions. In order to introduce the concept of constitutional identity, there are three approaches referred to. The first of them includes constitutional identity in the process of European integration. The second is to define the relationship of constitutional identity to the protection of fundamental rights. The third one presents the elements constituting the constitutional identity of selected states based on the jurisprudence of national constitutional courts.

The fourth chapter presents historical approach because it contains the genesis of constitutional solutions adopted in individual, selected European countries in a systematic way. An introduction to the detailed considerations is the analysis of the constitutional solutions adopted in them. The purpose of this chapter is to demonstrate the impact of historical and political conditions of a state on the solutions adopted in its Constitution, including primarily the establishment of a eternity clause limiting the possibility of changing specific constitutional matters.

The fifth chapter, which together with the sixth and seventh chapters, constitutes the main core of the dissertation, discusses the procedure for amending the constitution in selected European countries based on applicable regulations. This chapter is an introduction to the considerations in the following chapter.

The following chapter describes the subject and nature of constitutional "unchangeable" provisions contained in the basic laws of selected European countries. The system analysis of the adopted solutions, based on formal and legal as well as empirical and political criteria, also allowed the selection of various models of constitutional solutions adopted in this respect. This

chapter was divided into two main parts. The first includes considerations on the subject of eternity clauses expressly stated in the text of the constitution. In this regard, the values protected by eternity clauses, such as the "spirit of the constitution", protection of the principle of a democratic state ruled by law, form, system and structure of the state, as well as fundamental human and civil rights and freedoms were analyzed. The second main part analyzes the implicit perpetual provisions, i.e. those which have been distinguished by case law and doctrine. The purpose of sixth chapter is to present the solutions adopted in the area of establishing constitutional unchangeable provisions in selected countries, based on an analysis of their legal basis, case law and doctrine views. The considerations contained in this chapter also relate to the practice of complying with established material restrictions on the amendment of the Basic Law.

The subject of the last, seventh chapter is the analysis of the impact of unamendable provisions on the constitutional identity of the state. In this regard, also the functions and tasks of the eternity clauses are analyzed. This chapter also indicates the importance that is assigned to these provisions in practice. The following part of chapter seventh characterizes the problem of "invariability" of the Constitution of the Republic of Poland of April 2, 1997.

The thematic scope of the work resulted in the necessity to use several methods of scientific research, namely the legal-dogmatic, legal-comparative and historical methods. The historical method was used primarily in the fourth chapter. While writing the remaining chapters, the basic role was played by the legal and dogmatic method, which was used to analyze the provisions of applicable law resulting from the basic laws of selected European countries, as well as the system method, which allowed the emergence of various models of the adopted solutions. The legal and comparative method was also particularly important for the undertaken research, which allowed for the analysis and comparison of the adopted solutions in the scope of material restrictions on changes in basic laws.

The motivation to undertake research on the issue of material restrictions in the scope of constitutional changes and their impact on the constitutional identity of the state was the increasing demand to separate of the „core” of the constitution which should not be subject to a change. It should be noted that on the one hand, a fairly large number of foreign publications on eternity clauses have appeared, in particular in the Czech Republic, Germany and France. It should be mentioned also that the problem of "invariability" of a certain range of constitutional matter began to develop significantly with the beginning of European integration and establishing the scope of competences that the state cannot transfer to the European Union. On the other hand, the analysis of constitutional eternity clauses in Polish constitutional literature

is rather complementary to the considerations regarding the procedure for amending the constitution in selected countries, as well as when discussing issues related to constitutional identity. Therefore, this topic is not widely discussed in Polish constitutional literature. Moreover, the issue of the impact of eternity clauses on the constitutional identity of the state has not yet been the subject of comprehensive legal and comparative research. It should therefore be hoped that this work will, at least to some extent, fill this gap in literature.

Keywords: *eternity clauses, immutable provisions, constitutional principles, amendment of the constitution, constitutional identity of the state*

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