

SUMMARY

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The concept of a rational legislator in the jurisprudence of the Constitutional Tribunal

The debate on the concept of a rational legislator, which has been going on for many years, has aroused ambivalent feelings among representatives of the Polish legal doctrine from the very beginning.

The condition of Polish legislation has been criticized for a long time, and negative assessments of the legislator's actions and the way it shapes the legal system are signaled with great regularity. Such a situation seems to be in direct breach of the postulate of a rational legislator rooted in the doctrine.

The dissertation concerns the presentation of the title concept in the jurisprudence of the Constitutional Tribunal, which refers to the rationality of the legislator very often, deriving it from the principle of a democratic state ruled by law and pointing to a connection with constitutional principles such as correct legislation, proportionality and equality.

The main research task of the dissertation is to answer the question whether the Constitutional Tribunal has developed its own, coherent concept of a rational legislator in its jurisprudence. The remaining research problems focus on examining whether the ideas concerning the rationality of the legislator developed in the doctrine and the disputes concerning these ideas are reflected in the decisions of the Constitutional Tribunal.

The work consists of four chapters. The first one focuses on the outline of understanding the concept of rationality over the centuries. The second chapter presents the diversity of views on the concepts of the rational legislator in the doctrine of law, by presenting various, often ambivalent, positions of the representatives of the legal science in this matter. The third chapter deals with what can be described as rational lawmaking and the analysis of the influence of the principles of legislative techniques as guidelines in the legislative process. The last and most important chapter for this dissertation concerns the analysis of the concept of the rational legislator in the jurisprudence of the Constitutional Tribunal from the beginning of its existence until the end of 2021.

In the Conclusion, the author answers the research questions posed earlier. The Constitutional Tribunal recognizes the principle of a democratic state ruled by law as the basis for the concept of a rational legislator, often referring in this context to the principles of proper legislation, proportionality

and equality. However, it is impossible to consistently and completely define the features that a rational legislator should have in the light of the jurisprudence of the Constitutional Tribunal. It can be noted, however, that the views of the legal science in this matter are reflected in the appeals of the Constitutional Tribunal to the rationality of the legislator. A rational legislator formed in the doctrine should use consistent knowledge (which is a system containing its own logical consequences and best justified in the light of the current state of science), observe the linguistic correctness of the formulated legal provisions and be a reliable axiologist. The rulings of the Constitutional Tribunal do not lack those in which the rationality of the legislator was assessed in an unequivocally negative manner. The relationship between negative judgments and the idea of a rational legislator is also worth noting. It is hard to talk about the rationality of the legislator who adopted a regulation inconsistent with the constitutional law. Therefore, it seems necessary to understand the doctrinal idea of the rational legislator in such a way that it constitutes a kind of model for the actual legislator, who quite often makes legislative mistakes. The rulings of the Constitutional Tribunal declaring inconsistency with the Constitution or the aforementioned rulings in which the rationality of the legislator has been directly questioned can be treated as specific guidelines for creating law in such a way that it complies with the Constitution.