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The right to defense as a human right in the light of the Constitution of the Republic of Poland and international standards

(Abstract of doctoral dissertation)

The author raised the issue of the right to defense as a human right. The reference point was: the Constitution of the Republic of Poland and international standards.

In Chapter 1, the author made a general characterization of the right to defense, showing the development of this institution and its perception in terms of human rights. The subject of the analysis was the right to defense both as an international standard, but also as a national standard.

In Chapter 2, the author presented the right to defense in the axiology of international institutions, both universal and regional (Council of Europe, European Union, Organization for Security and Co-operation in Europe).

In Chapter 3, the right to defense is presented in the light of the axiology of the Constitution of the Republic of Poland and legislation.

Chapter 4 is of key importance, where the author confronted the right to defense as an international standard with the legislation of the Republic of Poland. It also showed the implementation of the right to defense in the light of the jurisprudence of the Constitutional Tribunal, the Supreme Court and the Supreme Administrative Court.

The author used the following research methods: the legal-dogmatic method, the historical method and the method of systemic analysis.

The author formulated and positively verified four research hypotheses. The author stated, among other things, that "Including the right to defense among basic human rights means that it is of fundamental importance for ensuring justice and protecting the individual against abuse of power. The right to defense is at the center procedural and procedural guarantees that aim to ensure fair and "equal process". "Case law of the European Court of Human Rights and resolutions of the Venice Commission indicate where Polish law and practice of assessment are justice dealing with the right to defense deviates from international standards. This constitutes and constitutes it should inspire us to make appropriate changes in Polish in the future legislation".

The author formulated the following final thesis: "Fulfilling the content of the right to defense as a right human nature is dynamic at subsequent stages of civilization development. They bring knowledge about new types of threats that appear in regarding the right to defense. It constitutes the basis for formulating new ones international standards, both hard law and soft law. These the former should be implemented into Polish legislation in accordance with their legally binding force. The latter should be the subject of special consideration, because – even if they are not legally binding - their implementation into Polish law can contribute to a more effective realization of the right to defense as human right".

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