

Summary:

The doctoral dissertation titled "The Competence of the President of the Republic of Poland to appoint judges" concerns a classic issue in the field of constitutional law. The aim of the work is to address the following research questions: 1. What is the origin of the current competence of the President of the Republic of Poland to appoint judges? 2. What is the legal nature of the President of the Republic of Poland's competence to appoint judges? 3. In what capacity does the President of the Republic of Poland act when exercising the power to appoint judges? 4. What is the nature of the KRS's application to appoint a given person to the position of judge? 5. Is the President of the Republic of Poland obliged to exercise their competence in the event of receiving an application from the KRS to appoint a given person to a vacant judicial position? 6. Is the exercise of the power to appoint judges by the President of the Republic of Poland subject to judicial control (more broadly: control of judicial authorities), and if so, which body is authorized to do so and to what extent? 7. How do irregularities at the stage preceding the procedure for appointing a judge affect the validity of the act of appointment itself?

The work will consist of 3 parts:

The first part concerns source research and historical studies on the origins of the current regulations regarding the appointment of judges, with particular emphasis on the role played by the head of state. The aim of the analysis is to determine how the development of this competence influenced its present shape.

The second part of the doctoral dissertation concerns the work of the constitutional commission on the provisions of Art. 144 section 3 point 17 and art. 179 of the Constitution. Moreover, there is a broad analysis of the concept of prerogative, its meaning and the role they give to the political position of the President, in particular in shaping the judicial power and the process of appointing judges.

The third part of the work concerns the analysis of the possibility of judicial control of the President's exercise of his prerogative to appoint judges. It will analyze extensive case law of the Supreme Administrative Court, the Supreme Court and the Constitutional Tribunal. The result of the analysis is to answer the question whether there is a judicial authority capable of controlling the exercise of the presidential prerogative to appoint judges and, if so, which of them has jurisdiction in this matter.

The main thesis of the work is the statement that the development of the competence to appoint judges as a prerogative is one of the manifestations of the principle of separation of powers, and at the same time a guarantee that the power to judge will be entrusted to specific persons by the body with the greatest democratic legitimacy in Poland.

In conclusion, the research results are compared with the following research hypotheses:

1. The origin of the competence of the President of the Republic of Poland to appoint judges dates back to the times of the monarchy. The current development of the competences of the President of the Republic of Poland to appoint judges is an adaptation of the monarch's competences to contemporary realities.
2. The development of the competence of the President of the Republic of Poland to appoint judges as a presidential prerogative was caused by the deliberate action of the legislator, aimed at giving this competence a special character.
3. Establishing the competence of the President of the Republic of Poland to appoint judges as a presidential prerogative increases the political position of the judiciary and strengthens the principle of separation and balancing of powers.
4. The role of the KRS in the process of appointing judges is limited only to initiating this process, while the application itself is non-binding for the President of the Republic of Poland.
5. The President has the right to refuse to appoint a person covered by the KRS's application to a judicial office.
6. The exercise of the power to appoint judges by the President of the Republic of Poland is not subject to control by the judicial authorities. No court has the authority to rule on the validity of the presidential act of appointing a judge. The only body with jurisdiction to assess the exercise of his prerogative competences by the President of the Republic of Poland is the State Tribunal.
7. The jurisprudence of the Constitutional Tribunal shows that frequent changes made to the Act on the KRS, the law on the system of common courts and the law on the system of administrative courts have, over the years, shaped different standards in the process of selecting candidates for judges.
8. Irregularities in the process of selecting candidates cannot lead to the invalidation of the presidential act of appointing a judge. The invalidity of such an action may be declared only in strictly defined cases that confirm that the actions performed by the President of the Republic of Poland are not official acts.