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INTERNATIONAL AND EUROPEAN LAW IN THE POLISH LEGAL SYSTEM*

I. The Position of International Law in the System of Law in Poland

The Polish Constitution of 2 April 1997 is the first Polish act of this magnitude which comprehensively regulates the system of sources of law with a special attention paid to the position of international law in the domestic legal system. It has also strengthened the constitutional principle of hierarchical system of legal acts.

The provision of art. 8 p. 1 of the Constitution provides that the Constitution shall be the supreme law of the Republic of Poland. The particular position of this act is also emphasized by art. 188 p. 1 of the Constitution which regulates the competence of the Constitutional Tribunal to adjudicate the matter of the conformity of statutes and international agreements with the Constitution.

In case of discrepancy of constitutional provisions and the provisions of international law, the appropriate state authorities shall undertake some actions in order to eliminate the contradictions. Such reaction can involve one of three options: the amendment of the Constitution, the change of international law or the release from international obligations. In accordance with art. 27 of the Vienna Convention of 23 May 1969 on the Law of Treaties, a state cannot rely on its internal rules in order to avoid the implementation of a treaty. However, the priority of treaties before all national laws refers to the international level only so it does not prejudice the priority of its implementation before all instruments of national law, especially the Constitution.

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The Polish Constitution has introduced a dualistic division of the sources of law – on the acts of general application and the acts of internal force (art. 87 and art. 93). The sources of universally binding law in Poland include the Constitution, statutes, ratified international agreements, regulations and the enactments of local law within the territory of the organ issuing such acts. The acts of internally binding character can be addressed only to organizational units subordinate to the authors of such acts and they cannot serve as the basis for decisions concerning citizens, legal persons and other subjects.

According to art. 88 of the Constitution, the precondition for the entry into force of legal acts – statutes, regulations or local laws is their promulgation. The principles and the procedures of promulgation of normative acts have been specified by law which states that international agreements ratified with prior consent granted by a statute must be promulgated in accordance with the procedures required for statutes. In this respect the relevant acts are: the Law of 20 July 2000 on the Promulgation of Normative Acts and Other Legislation and the Law of 14 April 2000 on International Agreements. The above mentioned provisions explicitly provide that ratified international agreements are the sources of universally binding law in Poland. What is more, the Constitution clearly distinguishes the international agreements ratified with prior consent granted by a statute and other international agreements. The Constitution also defines their scope, their position in relation to other legal acts and the mode of their ratification.

According to art. 89 p. 1 of the Constitution, the ratification of an international agreement by the Republic of Poland, as well as its renunciation, requires prior consent granted by a statute if such agreement concerns:

- 1) peace, alliances, political or military treaties;
- 2) freedoms, rights or obligations of citizens, as specified in the Constitution;
- 3) the Republic of Poland's membership in an international organization;
- 4) considerable financial responsibilities imposed on the State;
- 5) matters regulated by a statute or those in respect of which the Constitution requires the form of a statute.

The above enumeration covers a broad range of issues. However, not all constitutional criteria have been sufficiently precise, which can cause practical difficulties with their application. Nowadays, it is difficult to find international agreements that do not relate to matters regulated by a statute. The scope of issues which require international agreements to be ratified with the prior consent granted by a statute is so broad that there is little room left for treaties ratified without such consent. However, the Constitution also explicitly mentions the category of international agreements which ratification does not require the prior consent. According to art. 89, the Prime Minister shall inform the Sejm (the lower chamber of the Polish parliament) of any intention to submit such agreements for ratification to the President of the Republic. Thereby, the Parliament can control the accuracy of Prime Minister's decisions concerning the mode of ratification

of an international agreement. The rules and procedures for the conclusion and renunciation of such international agreements have been specified by the above mentioned Law on International Treaties.

Art. 146 of the Constitution provides that the Council of Ministers conducts the internal affairs and foreign policy of the Republic of Poland. To the extent and in accordance with the principles specified by the Constitution and statutes, the Council of Ministers, in particular, concludes international agreements that require ratification as well as accepts and renounces other international agreements.

According to art. 133, the President of the Republic, as the representative of the State in foreign affairs, ratifies and renounces international agreements, notifying the Sejm and the Senate. Before ratifying an international agreement, the President may refer it to the Constitutional Tribunal with a request to adjudicate upon its conformity to the Constitution. President acts preventively in this case and relates directly to the international agreement.

In the context of international agreements ratified with the prior consent granted by a statute it must be noticed that signing all statutes lies within the competences of the President. Therefore, he may also – applying general rules - before signing a new statute, refer it to the Constitutional Tribunal for an adjudication upon its conformity to the Constitution. The President of the Republic cannot refuse to sign a statute which has been judged by the Constitutional Tribunal as conforming to the Constitution. If the President has not referred the act to the Constitutional Tribunal, he may refer it to the Sejm for its reconsideration. However, if the bill is adopted again by a three-fifths majority vote in the presence of at least half of the statutory number of deputies, the President is obliged to sign it within 7 days and order its promulgation in the Journal of Laws of the Republic of Poland (*Dziennik Ustaw*). If the bill is not adopted by the Sejm again, the President has no right to refer it to the Constitutional Tribunal.

According to art. 144 of the Constitution, the general rule is that official acts of the President require, for their validity, the signature of the Prime Minister who, by such signature, becomes responsible for such acts before the Sejm. However, the Constitution provides several exceptions in this regard. For example, the countersignature of the Prime Minister is not required in case of signing or refusing to sign a bill, ordering the promulgation of a statute or an international agreement in the Journal of Laws of the Republic of Poland or making a referral to the Constitutional Tribunal.

In art. 90 the Constitution also distinguishes a separate category of international agreements that serves as the basis of European integration. The Republic of Poland may, by virtue of international agreements, delegate to an international organization or international institution the competence of state authorities in relation to certain matters. A statute granting consent for the ratification of such international agreement must be passed by the Sejm by a two-thirds majority

vote in the presence of at least half of the statutory number of deputies, and by the Senate by a two-thirds majority vote in the presence of at least half of the statutory number of senators. However, granting consent for ratification of such agreement may be also passed by a national referendum conducted in accordance with art. 125 of the Constitution. In a particular case this is the Sejm that decides on the procedure for granting consent for the ratification in a resolution taken by an absolute majority vote in the presence of at least half of the statutory number of deputies.

According to the Constitution, the ratification and promulgation of an international agreement entail certain consequences for the legal system. After its promulgation in the Journal of Laws of the Republic of Poland, a ratified international agreement constitutes a part of the domestic legal order and is applied directly, unless its application depends on the enactment of a statute. What is more, an international agreement ratified upon prior consent granted by a statute has precedence over statutes in case it cannot be reconciled with the provisions of such statutes.

A separate provision of the Constitution applies to the status of the so-called European secondary legislation. If an agreement establishing an international organization, ratified by the Republic of Poland, provides so, the laws established by it shall be applied directly and have precedence in case of a conflict of laws.

The Constitution of 1997 in one of its transitional provisions defines the status of international agreements concluded before its entry into force. Art. 241 p. 1 provides that international agreements, previously ratified by the Republic of Poland upon the basis of constitutional provisions valid at the time of their ratification and promulgated in the Journal of Laws of the Republic of Poland are considered as agreements ratified with prior consent granted by a statute and are subject to the provisions of art. 91 of the Constitution if their connection with the categories of matters mentioned in art. 89 p. 1 of the Constitution derives from the terms of an international agreement.

In art. 188, the Constitution defines the scope of jurisdiction of the Constitutional Tribunal. In particular, the Constitutional Tribunal adjudicates the conformity of statutes and international agreements to the Constitution, the conformity of statutes to ratified international agreements which ratification required prior consent granted by a statute and the conformity of legal provisions issued by central state authorities to the Constitution, ratified international agreements and statutes. The judgments of the Constitutional Tribunal are of universally binding application and are final. A judgment of the Constitutional Tribunal on the non-conformity to the Constitution of a normative act which has been applied in order to issue a court decision or a final administrative decision can be the reason for reopening proceedings or quashing the decision according to the provisions applicable to the given proceedings.

The provision of art. 191 of the Constitution identifies entities that may apply to the Constitutional Tribunal to examine the constitutionality and the legality of normative acts. The judicial review in Poland has a consequent (repressive) nature, with the exception specified above. As previously mentioned, the President of the Republic has the right to initiate the preventive control before the Tribunal before signing of a statute and before ratifying an international agreement. In accordance with the general principles specified in Art. 50 p. 3 of the Law of 25 June 2015 on the Constitutional Tribunal, the constitutional review may cover the content of the questioned act (substantive control) or the mode of its adoption (procedural control).

As is apparent from the above mentioned provisions neither the Constitution nor the law on the Constitutional Tribunal determine the legal consequences of the Constitutional Tribunal's decisions relating to international agreements. Therefore, the general rules provided by art. 190 of the Constitution should be applied. The decision of the Tribunal that an international agreement is unconstitutional does not mean that the agreement loses its binding force from the point of view of international law. However, it cannot be applied in the Polish legal system.

It should be also emphasized that according to the Constitution, ratified international agreements may not only be subject to review by the Constitutional Tribunal, but also may serve as the model of control in the proceedings before the Constitutional Tribunal (art. 188). The provisions of the Constitution clearly indicate the hierarchy of legal acts. International agreements ratified with the prior consent granted by a statute serve as a model for review of the conformity of statutes with such agreements and have precedence over statutes if case of conflict (art. 188 p. 2, art. 91 p. 2). The legal force of such agreements is lower than the legal force of the Constitution but higher than the legal force of statutes. The priority of such agreements before ordinary laws relates to the fact that the prior consent for their ratification granted in a statute is a kind of a self-restraint of the Sejm in matters regulated by the agreement. The supremacy of such agreement over the statute does not depend on the time sequence of acquiring the legally binding force.

Other provisions of laws, issued by central state authorities, must not only be consistent with the Constitution and statutes, but also with ratified international agreements. Art. 188 p. 3 of the Constitution in general refers to "ratified international agreements", which means not only international agreements ratified with prior consent granted by a statute, but also international agreements that do not require ratification in this qualified manner. The latter ones do not have precedence over statutes, but they take precedence over regulations. As it was previously pointed out (art. 87 p. 1 of the Constitution), non-ratified international agreements do not constitute a source of universally binding law in Poland. They can act as internal law binding organizational units subordinate to the authority

which has concluded such agreement. However, their character does not relieve the Polish state from the responsibility for the implementation of commitments made in the international sphere. If necessary, the appropriate amendments in national law should be implemented in order to respect such liabilities.

The previously mentioned provisions of the Constitution, concerning the catalogue and the character of the sources of law, their position, procedural aspects and the scope of the Constitutional Tribunal's jurisdiction, directly refer only to international agreements. There is no reference to the general principles of international law or to customary international law. The explicit constitutional regulations are therefore limited. However, this does not repeal the questions about the sources of international law other than international agreements. In that context, art. 9 of the Constitution should be analyzed.

In accordance with art. 9 of the Constitution, the Republic of Poland respects international law binding upon it. This formula does not correspond clearly to the question of the position of the above mentioned sources of international law in the Polish internal legal order. Its general character does not constitute an indication for the procedure in the event of a conflict between national law and the sources of international law other than international agreements. However, it implies the binding character of international law and the obligation to apply it at the internal level. Art. 9 of the Constitution provides that the interpretation of the Constitution which reduces the role of international law is unacceptable. It points to the role of international law in the activities of all state authorities, including the role of the general principles of international law and customary international law. What is more, art. 9 of the Constitution also constitutes a general principle of the political system declaring the favor of Polish law towards international law. This principle is also apparent in the preamble of the Constitution, which declares the awareness of the need for cooperation with all countries for the good of the Human Family. Therefore, despite the silence of Constitutional provisions, the general rules of international law and customary international law should have precedence over statutes. If they were equal with statutes, it would be possible to change them by a statute. This would undermine the logic of art. 9 of the Constitution.

The earlier comments referring to the jurisdiction of the Constitutional Tribunal concerning the sources of international law also indicate that the Constitution does not refer to other sources of international law than international agreements. It means that the Constitutional Tribunal does not have the competence to use the general principles of international law and customary international law as the object as well as the model of constitutional review of law. That is because of the fact that the competences of state authorities cannot be presumed.

II. The Impact of European Law on the System of Law in Poland

The development of European integration also stimulates questions concerning the future of the classically understood national constitutional law and the perspectives of comparative research in this sphere. The future is not very promising if it is assumed that 'the notion of the Constitution, at least in its wide meaning, may be transformed onto the supranational level, onto the legal order of the European Community, which emerged from the transfer of the national sovereign laws as the Community increasingly takes over the functions of the states and thus, increasingly more intensively substitutes a functional State' [R. Arnold]. This proposal corresponds with the idea of emergence of a new decision-making subject in the EU, e.g. the citizens of the EU [I. Pernice].

But are these premises still relevant? The answer requires defining the character of the EU and the role of EU law in the Member States' legal systems. The EU is neither a State nor is it an entity resembling a State. It is composed of Member States, which transfer their competences in the matters defined by treaties. The transfer of these competences to the European institutions is not the case of transferring them to a superior authority but, on the contrary, is the case of commissioning the European institutions appointed for this purpose to exercise them. After all, accomplishment of some tasks and competences of the State is transferred onto the self-governments or social organizations, which does not result in restricting the State authority but only constitutes a case of restricting its direct execution. The Union is developing very dynamically but this development is based on consecutive treaties expressing the will of the Member States – the will democratically authorized and reflecting the will of citizens of individual states. The process of forming the will is determined by the constitutional law of individual states, and it specifies the principles of their representatives' participation in the activities aiming at integration and the scope of their authority. Neither the primary nor the derivative laws of the EU comprise the whole of social relations, which include only these areas which Members of the EU have decided to subject to its regulation.

Considering the above, the emergence of a new supreme power, constituted by citizens of all the EU Member States, cannot be confirmed. The discussion of the role played by EU law in the legal systems of the Member States requires an analysis of how the issue is regulated by their constitutions. Only the Constitution of the Republic of Ireland admits the superior role of EU law. In the remaining Member States the constitutions (e.g. Germany) or at least basic constitutional principles (e.g. Italy, Austria) still retain the superiority over EU law. Recognizing the supreme position of the Constitution in the Source of law is a logical consequence of the fact that the Constitution defines the subject of State authority and delegates competences (including legislation) to State institutions. It should be reminded here that the discussion in the National Assembly preceding the

resolution of the Constitution of the Republic of Poland distinctly emphasized the fact that the supreme legal force of the Constitution is tightly linked with the sovereignty and independence of Poland. Interestingly, in the Polish literature has appeared an opinion proposing the supremacy of the EU primary law over the Polish Constitution. It is based on the recognition of Article 91, Section 2 of the Polish Constitution, which in this case is not fully applicable. The argument here is the complex character of the integration act and the special procedure of its ratification in the referendum, i.e. the constitutional act of integration executed in agreement with the Constitution. The supporters of this point of view quote the unity of the EU primary law and the Constitution of the Republic of Poland in its axiological stratum, its aims as well as the issue of human rights. The EU Member States retain their sovereignty and 'the multi-level character of the Union offers great flexibility. Participation in the EU policies differs relative to their nature and the Member States themselves. The Schengen Agreement, the euro zone or the Western-European Union do not comprise the same countries. Similarly, some states are neutral, while others are the NATO members. [...] Rejection of one of the policies does not entail the rejection of the entire process' [A. Missir di Lusignano]. Thus, the constitutions of the Member States expressing the State sovereignty still retain their significance, and their disappearance cannot be expected in the foreseeable future. EU law should not be discussed in isolation from the internal laws of its Member States. It is created by the representatives of individual Member States legitimized by the binding constitutions. The EU does not replace the states but the states remain – as formulated by the German Federal Constitutional Tribunal – 'the lords of the treaties'. The Tribunal reserved the right to investigate 'whether the legal acts of the European institutions and organizations remain within the limits of the ceded sovereign laws and do not exceed them'. Similar attitude admitting supervision of constitutionality of the treaties constituting the EU primary law was adopted by constitutional tribunals in Italy, Spain and Poland.

The Polish Constitutional Tribunal stated: 'Establishment treaties are international agreements. The sovereign parties to these agreements are the Member States. They independently and in accordance with their constitutions ratify the treaties and have at their disposal the right to terminate them' [OTK ZU No. 5/A/2005, pos. 49]. In this context, the issue of resolving conflicts between the constitutions or legal acts and the Community primary or derivative law in the practice of Member States' political systems is exceptionally interesting. EU law itself does not include any provisions concerning the resolution of conflicts between it and the internal law of the Member States.

It should be added here that as early as in the 1960s, the European Tribunal of Justice resolved that the superiority of EU law is absolute and does not depend on the rank of the internal law norm or their temporal sequence. Besides, the uniformity of EU law stipulates that it must be uniformly applied in all the Member

States, and therefore, its interpretation is reserved for the European Tribunal of Justice, as it would be unacceptable if agencies and especially courts in individual Member States interpreted the law in a different way, which would cause chaos. Therefore, in the case when a Member States' legal system retains the norms contradicting the Community law, the Tribunal may declare that it does not meet the requirements resulting from the Treaties constituting the EU. Such a ruling, however, does not entail direct legal consequences and the elimination of the legal norms conflicting with the Community law rests within the competence of a given EU Member.

In the case of a conflict between EU law and the Constitution, courts and other legal institutions implementing the Constitution attempt to use the interpretation favoring EU law. But, as the Polish Constitutional Court stated 'the interpretation favoring EU law has its limits. It cannot, after all, lead to results not in accordance with the Constitution' [*ibidem*]. If, however, the contradictions between EU law and the Constitution cannot be removed, two solutions are available: either, due to the superiority of the Constitution, the conflicting norms of EU law are not enforced (which in the case of the primary law denotes the refusal to ratify the treaty which belongs to it or the denunciation of the ratified treaty) or – which is a much more frequent case – the Constitution is modified before an EU regulation comes in force, which aims ensuring the effectiveness of Community law and the process of European integration.

The above is exemplified by the modifications of several constitutions (French, German, Belgian and Spanish) performed to facilitate the ratification of the Maastricht Treaty. An interesting solution was adopted in Finland. International treaties discordant with the Constitution may be incorporated into it by a majority of votes of the members of the parliament (two thirds), which practically denotes modifying the Constitution. Constitutions are modified even when their provisions collide with the derivative law (e.g. in Germany). In the practice of the political systems of Member States, the jurisdiction of constitutional courts, where they exist, or supreme courts attributes EU law with superiority over internal regulations of a lower rank than the Constitution, which has been based not so much on EU law and the jurisdiction of the Tribunal but on the constitutional norms. In Great Britain, where there is no Constitution, in the early 1990s the House of Lords advocated the non-application of the internal law if it conflicted with EU law. The superiority of Community law over the Constitution if both cannot be reconciled denotes that 'the restriction of the constitutional laws below the standards resulting from the international norms in relation to a ratified international agreement or a law resolved by an international organization should not be admissible' [P. Policastro].

The constitutions of EU Member States and the judicial decisions of courts do not decide about the results of the principle of the Community law superiority, and it is not clear whether an application of a regulation conflicting with an

agreement of that category is only suspended Or whether the regulation is invalid or ineffective. The analysis of judicial decisions prompts the conclusion that an internal law regulation which is not applied due to the superiority of Community law still remains part of the legal system and will be applied when the provisions of Community law cease to be binding in the country. In this context, the following view expressed by the Polish Constitutional Tribunal should be quoted: 'In the light of the constitutional principle of the priority of Community law over statutory norms (Article 92 § 2 and 3 of the Constitution), if there are no doubts as to the content of the norms of Community law, the court should refuse to apply the provision of the statute not in conformity to this norm and apply directly the provision of Community law. The court does not adjudicate in this case on repealing the norm of national law but only refuses to apply it in the scope in which it is obliged to give priority to the norm of Community law. The legal act in question is not affected by invalidity, it is still binding and is applied in the scope not covered by the norms of Community law. If, however, it is not possible to apply directly the norms of Community law, the court should seek the possibility of an interpretation of national law in accordance with Community law. In the case of the appearance of interpretative doubts in relation to Community law, the court should turn to the European Court of Justice with a prejudicial question' [OTK ZU No. 11/A/2006, pos. 177].

It follows from the current discussion that the constitutions of EU Member States have retained their legal significance. Thus, the existing notional apparatus and research methods remain valid, while the research of the constitutional law, including comparative research, makes sense. The Member States, facing the same or similar external challenges and internal problems, solve them not only with the aid of EU institutions but also by adopting in their internal legal systems certain systemic measures verified in other Member States. It would also be interesting to examine the reasons of rejecting the solutions present in the constitutions of other EU Member States. Doubtless, the Member States and the states attending to get access to the EU are obliged to respect the Union's fundamental values. However, this does not define either the contents of Constitution itself or the form of a given State organ or the scope of regulations concerning human rights. For example, democracy means division of powers and insurance of society's control over the executive. Achievement of these aims is possible in several ways: it can be the system with strong residential power or the system with the Parliament as the supreme State organ, or else the English model of a strong Prime Minister, or similar to it – the chancellor model of government etc. We should not forget that the Constitution is not used for establishment or adoption of a hierarchy of values – this is the role of Church. Constitutions are meant to materialism values in form of legal norms, to establish the hierarchy of norms and rules in the organization of the state. The Constitution does not create any

economic or political system. It only serves to organize the State and to create relations between the individual and the State.

The Constitution is the essence of the State and national identity. In the case of the so-called primary EU law there are international agreements ratified on a consent granted in a statute or referendum. The primary and secondary EU law has a similar position in the Polish legal system, i.e. primacy over statutes. In this context, the following view expressed by the Polish Constitutional Tribunal should be quoted: 'The very concept and model of European law created a new situation, where autonomous legal orders are binding independently of each other. Their mutual relations cannot be fully described by the traditional concepts of monism and dualism in the following arrangement: internal law – international law. Existence of relative autonomy of legal orders based on their own internal hierarchical principles does not denote absence of mutual influence and does not eliminate the possibility of collision between EU legal regulations and the provisions of the Constitution. This would occur if there was a contradiction between a constitutional provision and an EU legal norm, and if this contradiction could not be reconciled with the use of the interpretation respecting relative autonomy of the European law and the national law. Such a situation cannot be excluded, but it may – due to [...] common character of assumptions and values – occur only exceptionally. Such a contradiction can by no means be solved in the Polish legal system by adopting the view of superiority of an EU legal norm over a constitutional standard. Furthermore, it could not result in the loss of legal force of a constitutional standard and its replacement by an EU legal norm or in restricting the application of the norm in the area which is not regulated by EU law. In such a situation, the Polish legislator would have to decide to amend the Constitution or to cause changes in EU regulations, or – eventually – to leave the European Union. The decision should be made by the sovereign – the Polish Nation – or the body of State power which, according to the Constitution, may represent the Nation' [OTK ZU No. 5/A/2005, pos. 49].

If it results from an international agreement ratified by the Republic of Poland creating an international organization, the principle of direct implementation (Article 91(3) of the Constitution) refers to the law proclaimed by legislative organs of this organization. In practice, this formulation transpired to be too restrictive and the complicated process of implementation of EU law deserves a more precise description. The hitherto implementation practice consisting in issuing acts of internal law in its essence emulating the acts of EU law is not rational and a New provision regulating this issue should be introduced into the Constitution. Polish Parliament frequently decided to create its own regulations essentially emulating EU regulations, which in Poland could be binding directly.

Legal Acts:

- Constitution of the Republic of Poland of 2 April 1997, Published in the Official Gazette (Dziennik Ustaw) of 1997, No 78, item 483, with later amendments
- Vienna Convention of 23 May 1969 on the Law of Treaties, Published in the Official Gazette (Dziennik Ustaw) of 1990, No 74, item 439, with later amendments
- Law on the Promulgation of Normative Acts and Other Legislation of 20 July 2000, Published in the Official Gazette (Dziennik Ustaw) of 2000, No 62, item 718; consolidated version of 29 August 2011 published in the Official Gazette (Dziennik Ustaw) of 2011, No 197, item 1172, with later amendments
- Law on International Agreements of 14 April 2000, Published in the Official Gazette (Dziennik Ustaw) of 2000, No 39, item 443, with later amendments
- Law on the Constitutional Tribunal of 25 June 2015, Published in the Official Gazette (Dziennik Ustaw) of 2015, item 1064, with later amendments

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- W. Czaplński, *Wzajemny stosunek prawa międzynarodowego i polskiego prawa wewnętrznego w świetle przepisów Konstytucji z 1997 roku oraz orzecznictwa*, [w:] *Konstytucyjne podstawy systemu prawa*, red. M. Wyrzykowski, Warszawa 2001
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- M. Kruk (red.), *Prawo międzynarodowe i wspólnotowe w wewnętrznym porządku prawnym*, Warszawa 1997
- R. Kwiecień, *Miejsce umów międzynarodowych w porządku prawnym państwa polskiego*, Warszawa 2000
- M. Masternak-Kubiak, *Umowa międzynarodowa w prawie konstytucyjnym*, Warszawa 1997
- M. Masternak-Kubiak, *Przestrzeganie prawa międzynarodowego w świetle Konstytucji Rzeczypospolitej Polskiej*, Warszawa 2003
- A. Missir di Lusignano, *Członkostwo w Unii Europejskiej a suwerenność narodowa*, [w:] *Konstytucja dla rozszerzającej się Europy*, red. E. Popławska, Warszawa 2000
- Sz. Pawłowski, *Prawo międzynarodowe a prawo krajowe*, [w:] *Leksykon prawa konstytucyjnego. 100 podstawowych pojęć*, red. A. Szmyt, Warszawa 2010
- I. Pernice, *Europäisches und nationales Verfassungsrecht*, 2001, VVdStRL vol. 60
- P. Policastro, *Prawa podstawowe w demokratycznych transformacjach ustrojowych. Polski przykład*, Lublin 2002
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