



TO MAGNIFICO RETTORE OF UNIVERSITA' DEGLI STUDI DI MILANO

ID CODE 4860

I the undersigned asks to participate in the public selection, for qualifications and examinations, for the awarding of a type B fellowship at **Dipartimento di Diritto Pubblico Italiano e Sovranazionale**

Scientist- in - charge: Dr.ssa Antonia Baraggia

“The Transformation(s) of Public Power: the Use of Conditionality in the Global Governance”

MICHAL ZIOLKOWSKI

CURRICULUM VITAE

PERSONAL INFORMATION

Surname	Ziolkowski
Name	Michal
Date of birth	27 May 1985

PRESENT OCCUPATION

Appointment	Structure
Max Weber Fellow (2019 - present)	European University Institute, Florence
Assistant Professor (2018-present)	Kozminski University, Warsaw



EDUCATION AND TRAINING

Degree	Course of studies	University	year of achievement of the degree
Degree	Assistant Professor	Kozminski University in Warsaw	2018
Specialization	constitutional law comparative const. law theory of const. law		
PhD	Doctor of Law	Polish Academy of Science in Warsaw	2017
Master	Master of Law	Warsaw University	2009
Post-doc Fellowship	Max Weber Fellow	EUI in Florence	2019

REGISTRATION IN PROFESSIONAL ASSOCIATIONS

Date of registration	Association	City
2010 - present	Polish Association of Constitutional Law	Warsaw
2018 - present	Polish Association of EU Law	Warsaw
2019 - present	The Warsaw Bar Association	Warsaw

FOREIGN LANGUAGES

Languages	level of knowledge
Polish	native
English	C1
Italian	beginner



AWARDS, ACKNOWLEDGEMENTS, SCHOLARSHIPS

Year	Description of award
2019-2021	Scholarship from the European Institute University in Florence (Max Weber Programme)
2018	Award of the 'Panstwo i Prawo' (legal journal) for the best PhD dissertation in Poland

TRAINING OR RESEARCH ACTIVITY

My field of expertise concerns the theory of constitutional law, comparative constitutional law and constitutional law in Poland. In particular, my interest touches the judicial review and separation of powers, constitutional change and the constitutional identity, Rule of Law in the European multilevel jurisdiction, and constitutional populism.

I apply the doctrinal, comparative and normative approaches to the law. However, the recent study, I have just started, is based on various empirical methods (including the interviews with judges of the constitutional court). I want to elevate my empirical background after using quantitative techniques with the normative approach in 2018 (analysing the unconstitutionally composed constitutional court files in Poland).

One of my crucial research achievements is my book, forthcoming in 2021 (Wolters Kluwer Poland). It discusses the scope, function, and offers a new interpretation of the constitutional provisions regarding the state liability for damages for the state authorities' unlawful actions. The book results from my PhD dissertation, which I defended in the Polish Academy of Sciences three years earlier. My dissertation was awarded the first prize in the LIV contest for the best PhD by one of Poland's oldest and noble legal journals ('Law and State').

As a Max Weber Fellow in 2020-2021, my research is aimed to discuss how the constitutional courts support the constitutional populism. When we analyse constitutional populism, we usually focus on the governmental or parliamentary impact on human rights, civil society and other branches of power, including free media and an independent judiciary. That approach is justified when a populist malady spreads by political power actions. But what if the independent judiciary, after a long-time pressure and attacks of constitutional populist, is affected by populism too? In particular, what if a constitutional court, unconstitutionally captured, adopts illiberal constitutional narratives, refers to traditional nationalism or phobias and supports the pervasive risk of reversing democracy? The questions touch not an abstract issue anymore in Central and Eastern Europe. It became a more general and important for the European multilevel constitutionalism since the constitutional courts started to question the EU law and supported the illiberals. The research is to unpack the general claim that the counter-constitutional courts support populist governments and 'become illiberal executives' instruments. The claim leads to another - even more important - conclusion, that the counter-constitutional courts lost their constitutional legitimacy. They could not fairly perform their constitutional function or should not be recognised as independent authorities under the European constitutional standards. Since we know how the court's packing plans and how their (direct or indirect) consequences looked like, the more detailed questions arise regarding the content and directions of the case-law of the constitutional courts in the backsliding democracies (like Poland or Slovakia) or authoritarian regimes (like Hungary).

As a Max Weber Fellow 2019-2020 at the EUI, my efforts between were focused on how to constitutionally frame the EU Court of Justice power to adjudicate cases concerning the rule of law and issues of such high constitutional importance for the Member States as structures and powers of the judiciary. Following the



Associação Sindical dos Juizes Portugueses, Commission v. Hungary, Commission v. Poland as well as AK and others v. Sąd Najwyższy cases, I offer the bottom-up and inductive approach to answer the question. My MWF working paper and conference presentation had three objectives. The first was to discuss the recent legal developments regarding the Polish Supreme Court's independence in a broader context of the rule of law standards in the Polish Constitution and the EU Treaties. The second was to answer whether and - if so - to what extent the Court of Justice new case-law (adopted under Article 19 TEU and Article 47 Charter) influenced Polish constitutionalism. The third, following the recent academic's discussions on 'legitimacy' and 'trust' under the EU constitutionalism, was to use the Polish case to determine whether that kind of influence creates a potential risk for the constitutional pluralism in the EU.

Since 2015 the constitutional identity is a constant topic in my research. On the one hand, I have been focused on the migration of the identity concept and its judicial and doctrinal application in Poland. On the other hand, I have been trying to answer the question why the constitutional courts of the EU Member States prefer the exclusionary understanding of the identity (immersed in Carl Schmitt, Carl Bilfinger and Adolf J. Merkl works) instead of using modern and discursive approaches (offered i.a. by G. Jacobsohn, M. Rosenfeld or M. Troper).

Cooperation with other scholars became an essential part of my research activity. I believe, the discourse and co-working should always be a part of the contemporary research in the field of constitutional law. It is a consequence of the vast scope and dynamic of constitutionalism that calls for meeting different minds. I have been pleased to work, discuss and write with various scholars from various universities and countries. For more than three years, I was honoured to work for Wojciech Sadurski (University of Sydney) as a researcher in his two book projects on the rights before courts and Poland's constitutional breakdown. Together with dr Michał Krajewski (University of Copenhagen), we offered one of the first comments and analyses of the tests of the judicial authority's appearances of independence after the EU Court of Justice had adopted the test in his landmark judgement (AK v. Supreme Court, 2019). Together with prof. Maciej Bernatt (Warsaw University), we introduced and discussed the concept of 'statutory anti-constitutionalism', which covers a series of abusive and unlawful actions of constitutional authorities aimed to the total reinterpretation of constitution and redesign of the constitutional institutional arrangements. A few years earlier, together with Ada Paprocka (ECHR) we discussed and offered the first insight into the Protocol no 16 to the European Convention on Human Rights. Now, as the Max Weber Fellow at the EUI, supervised by Gabor Halmai, I am pleased to participate in the Constitutionalism and Politics Working Group seminars and meetings.

In the past research, I offered a systematic normative critique of the Constitutional Tribunal's case-law in Poland on the principle of equality. My articles concerned the inconsistency of the Tribunal's reasoning when it referred to equality and weak protection of gender equality by the Tribunal. I also discussed different doctrinal understandings of the separation of powers and judicial review in Poland. As a result, I have published 30 articles in reviewed journals in English and Polish and chapters in the books published by the recognised publishing houses (CUP, Wolters Kluwer Poland, CH Beck). My research was presented in English and Polish on international conferences and seminars organised by national (Warsaw University, Jagiellonian University) and foreign universities (European University in Florence, Dublin City University, European Law Institute in Vienna, The WZB Berlin Social Science Centre in Berlin, University of Salamanca, Scuola Superiore Sant'Anna di Piza, University of Trento, Akademie věd České Republiky).

PROJECT ACTIVITY

Year	Project
2018-2021	European constitutionalism. Pluralistic concept of the relationship between EU and national law in case law (Member of the research group). The National Science Centre granted the project in Poland.



2014-2018	Constitutional and National Identity of the EU Member State (Member of the research group). The National Science Centre granted the project in Poland.
2014-2018	Constitutional Intertemporal Law (Member of the research group). The National Science Centre granted the project in Poland.

PATENTS

n/a

CONGRESSES AND SEMINARS

Date	Title	Place
18.06.2020	Max Weber Fellows June Conference	EUI in Florence (Speaker)
24.03.2020	Webinar of the Dublin Law and Politics Review	Dublin City University (Speaker)
22.11.2019	European Papers Roundtable Debates: EU Court of Justice standing up to illiberal democracy: Polish judicial "reforms" on trial	University of Salamanca, Salamanca, Spain (Speaker)
26.10.2019	Workshop: Populism, Constitutional Democracy and the Rule of Law	Scuola Superiore Sant'Anna, Pisa, Italy (Commentator)
17.12.2019	European Judiciary Review Roundtable	Wolters Kluwer Poland, Warsaw, Poland (Speaker)
13.12.2019	III Congress of the Citizens Rights	Ombudsman Office, Warsaw, Poland (Speaker)
21-22.06.2018	Workshop on the Resurgence of Executive Primary in the Age of Populism	Institutum Iurisprudentiae, Academia Sinica, Taipei, Taiwan (Speaker)
5-7.07.2017	Courts, Power, and Public Law,	ICON SOCIETY, Copenhagen (Speaker)
27-31.07.201	Comparative Interpretation of European	The University of Trento Summer School



	Constitutional Jurisprudence	(participant)
--	------------------------------	---------------

PUBLICATIONS

Books and chapters (selected)
Book: Odpowiedzialność odszkodowawcza za niezgodne z prawem działanie władzy publicznej (studium konstytucyjnoprawne) [Liability for damages for unlawful actions of public authorities (constitutional law study)] Wolters Kluwer Poland 2021 (forthcoming)
Chapter: Constitutional Identity in Poland: Is the Emperor Putting On the Old Clothes of Sovereignty, in: 'Constitutional Identity in a Europe of Multilevel Constitutionalism', eds. Ch. Callies, G. van der Schyff, Cambridge 2020 (with Anna Śledzińska-Simon)
Chapter: General Report, in 'The role of the National Parliaments in the European Union', eds. G.C. Rodrigues Iglesias, L. Ortiz Blanco, Facultad de Drecho Universidad Complutense 2010 (with Mirosław Wyrzykowski and Radosław Puchta)
Chapter: Konstytucyjne zasady prawa i ich znaczenie dla interpretacji zasad ogólnych prawa i postępowania administracyjnego [Constitutional principles importance for interpretation of general principles of administrative law] in: 'Konstytucyjne podstawy funkcjonowania administracji publicznej. System Prawa Administracyjnego', vol. 2, eds. R. Hauser, Z Niewiadomski, A. Wróbel, C.H. Beck Poland 2012 (with Mirosław Wyrzykowski)
Chapter Konstytucyjny status proceduralny jednostki jako adresata działań organów administracji [Constitutional status of persons as addresses of administrative acts] in: 'Konstytucyjne podstawy funkcjonowania administracji publicznej. System Prawa Administracyjnego', vol. 2, eds. R. Hauser, Z Niewiadomski, A. Wróbel, C.H. Beck Poland 2012 (with Mirosław Wyrzykowski)
Chapter: Anonimowa konstytucja. Dyskretna europeizacja (uwagi na tle procedury zmian Konstytucji Królestwa Niderlandów), [Europeanization of the Constitution for the Kingdom of the Netherlands] in: 'Europeizacja Konstytucji Państw Unii Europejskiej', eds. K. Kubuj, J. Wawrzyniak, Scholar Publ. 2011

Articles in reviews (selected)
EU judicial independence decentralized, Common Market Law Review , vol. 57(4), Kluwer Int., 2020 (with Michał Krajewski)
Two Faces Of The Polish Supreme Court After 'Reforms' Of The Judiciary System In Poland (The Question Of Judicial Independence And Appointments), European Papers , vol. 5(1), 2020
Application of the notion of the constitutional moment to the Polish constitutional crisis 2015-2018 (a few critical remarks), Constitutional Review , vol. 4, Jagiellonian Univ. 2018



Statutory Anti-Constitutionalism (Polish Experience 2015-2018), Washington International Law Journal Review vol. 4, University of Washington School of Law 2019, (with Maciej Bernatt)
Advisory opinions under Protocol No. 16 to the European Convention on Human Rights, European Constitutional Law Review 2, Cambridge 2015 (with Ada Paprocka)
Konstytucyjna kompetencja sądu do ochrony własnej niezależności (uwagi na marginesie uchwały sN z 23.01.2020 r.) [Constitutional power of a court to protect its own independence], Państwo i Prawo , vol. 10, Wolters Kluwer Poland 2020
Przestanki wyznaczania sędziów do składu orzekającego trybunału konstytucyjnego i konsekwencje ich naruszenia [The rules of assigning judges to judicial panels of the Constitutional Tribunal and the consequences of violations of these rules], Ruch Prawniczy, Ekonomiczny I Socjologiczny , vol. LXXXII(3), Adam Mickiewicz Univ. 2020
Uprzywilejowanie wyrównawcze - analiza orzecznictwa Trybunału Konstytucyjnego [Compensatory privileges in the case law of the Polish Constitutional Tribunal], Państwo i Prawo , vol. 4, Wolters Kluwer Poland 2016
Zasada równości kobiet i mężczyzn - analiza orzecznictwa Trybunału Konstytucyjnego [Equality between women and men in the case law of the Polish Constitutional Tribunal], Państwo i Prawo vol. 2, Wolters Kluwer Poland 2016
Zasada równości w prawie - analiza orzecznictwa Trybunału Konstytucyjnego [Principle of Equality the case law of the Polish Constitutional Tribunal], Państwo i Prawo vol. 5, Wolters Kluwer Poland 2015
Prerogatywa Prezydenta do powoływania sędziów w świetle konstytucyjnej zasady współdziałania władz [Prerogative of the President of the Republic of Poland to Appoint Judges], Przegląd Sejmowy vol. 1, The Sejm Publ. House 2013
Skutki czasowe wyroków Trybunału Konstytucyjnego (w świetle orzecznictwa TK i SN), [Intertemporal aspects of Constitutional Tribunal judgements] Europejski Przegląd Sądowy vol. 4, Wolters Kluwer Poland 2012
Wyrok ETPCz jako podstawa wznowienia postępowania cywilnego [Influence of the judgments of the European Court of Human Rights on reopening of civil proceedings], Europejski Przegląd Sądowy vol. 9, Wolters Kluwer Poland 2011
Wyrok ETPCz jako orzeczenie stwierdzające niezgodność z prawem prawomocnego orzeczenia sądu cywilnego [Judgment of the ECHR as a judicial decision declaring illegality of the civil court's final decision], Europejski Przegląd Sądowy vol. 8, Wolters Kluwer Poland 2010

Congress proceedings



n/a

OTHER INFORMATION

Teaching Experience:

- 2020-2021 Assistant Professor; the courses of the constitutional law of modern states; citizens participation in the exercise of power; the impact of the constitutional court's case-law on the legal system
- 2019-2020 Assistant Professor; the courses of modern constitutional law; constitutional law in Poland;
- 2018-2019 Lecturer; the course of Introduction to Law
- 2017-2018 Lecturer; the course of Legal interpretation

Other Experience:

- 2008 - 2016 Constitutional Tribunal of Poland (*Referndaire, Judge's legal assistant*)
- 2001 - 2016 Committee on Legal Sciences of the Polish Academy of Sciences (*Assistant*)

Verfassungsblog and other Posts:

- 17.11.2020; Ziótkowski, Michał; Constitutionally Shameful Judgement in Bad Faith (Abortion Case Before the Polish Constitutional Tribunal); <https://blogs.eui.eu/constitutionalism-politics-working-group/constitutionally-shameful-judgement-in-bad-faith-abortion-case-before-the-polish-constitutional-tribunal/>
- 26.05.2020; Ziótkowski, Michał; Krajewski Michał: Can an Unlawful Judge be the First President of the Supreme Court?; VerfBlog, 2020/5/26, <https://verfassungsblog.de/can-an-unlawful-judge-be-the-first-president-of-the-supreme-court/> DOI: 10.17176/20200526-133602-0
- 24.03.2020; Ziótkowski, Michał: An Election in the Time of Pandemic, VerfBlog, 2020/3/24, <https://verfassungsblog.de/an-election-in-the-time-of-pandemic/> DOI: 10.17176/20200324-122934-0
- 26.11.2019 Ziótkowski, Michał; Krajewski, Michał: The Power of 'Appearances', VerfBlog, 2019/11/26, <https://verfassungsblog.de/the-power-of-appearances/> DOI: <https://doi.org/10.17176/20191126-122149-0>
- 26.11.2019; Ziótkowski, Michał; Grabowska-Moroz, Barbara: Enforcement of EU Values and the Tyranny of National Identity - Polish Examples and Excuses, VerfBlog, 2019/11/26, <https://verfassungsblog.de/enforcement-of-eu-values-and-the-tyranny-of-national-identity-polish-examples-and-excuses> DOI: <https://doi.org/10.17176/20191127-002325-0>
- 25.09.2019; Ziótkowski, Michał: Undemocratic but Formally Lawful: The Suspension of the Polish Parliament, VerfBlog, 2019/9/25, <https://verfassungsblog.de/undemocratic-but-formally-lawful-the-suspension-of-the-polish-parliament/> DOI: <https://doi.org/10.17176/20190925-232740-0>

Policy Reports:

- 2019 Report for the Osiatynski Archive in Warsaw on the restoration of the Rule of Law in the Polish Constitutional Tribunal, text in Polish: https://archiwumosiatynskiego.pl/images/2019/10/AO_Prezes-TK_ekspertyza_MZio%CC%81%C5%82kowski-1.pdf
-



- 2018 Report for the Stefan Batory Foundation in Warsaw on the Polish Constitutional Tribunal, text in Polish:: <http://www.batory.org.pl/upload/files/Programy%20operacyjne/Forum%20Idei/Funkcjonowanie%20Trybunalu%20Konstytucyjnego.pdf>

See also:

- Academia Profile: <https://kozminski.academia.edu/Micha%C5%82Zi%C3%B3%C5%82kowski>
- SSRN Profile: https://papers.ssrn.com/sol3/cf_dev/AbsByAuth.cfm?per_id=2457367
- Research Gate Profile: https://www.researchgate.net/profile/Michal_Ziolkowski4
 - EUI WEB: <https://www.eui.eu/ProgrammesAndFellowships/MaxWeberProgramme/People/MaxWeberFellows/Fellows-2020-2021/ZI%C3%93LKOWSKI-Michal>
- Kozminski WEB: <https://www.kozminski.edu.pl/en/community/card/phd-michal-ziolkowski>

Declarations given in the present curriculum must be considered released according to art. 46 and 47 of DPR n. 445/2000.

The present curriculum does not contain confidential and legal information according to art. 4, paragraph 1, points d) and e) of D.Lgs. 30.06.2003 n. 196.

Place and date: Florence, 3 February 2021

Signature

Michał Ziółkowski