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**THE RIGHT OF SUCCESSION  
IN THE CONSTITUTION OF THE REPUBLIC OF POLAND**

SUMMARY

The right of succession, although treated equally with the right to ownership by the lawgiver, is discussed marginally in the doctrine – it is either mentioned while discussing the constitutional regulation of the right to ownership or omitted. Despite the fact that the right of succession is functionally connected with the right to ownership, it should not be deprived of its own quality of an individual right, just as its protection should not be treated as anything less than a constitutional principle. The aforementioned right has its own legal value and may be discussed separately from the right to ownership. The personal scopes of the right to ownership and the right of succession do not overlap when it comes to the people granted with these rights. The right to ownership grants a person the possibility to dispose of their property *inter vivos* and *mortis causa*. The right of succession protects the possibility to dispose of one's property *mortis causa* and it protects the interest of one's heirs – unlike the right to ownership. Both the bequeather and the heirs are entitled to benefit from the right of succession and its protection.

The Constitution of the Republic of Poland mentions the right of succession directly in two Articles. The first one is Article 21 located in Chapter I, "The Republic", which contains the catalogue of constitutional principles. The other one is Article 64 located in Chapter II, "The Freedoms, Rights and Obligations of Persons and Citizens". The Polish Constitution grants the existence of the right of succession in Article 64 and its protection in Article 21. Article 21 recognizes the Country's obligations resulting from the right of succession, while Article 64 establishes an individual right. The fact that the right of succession is expressed directly in the Constitution of the Republic of Poland, despite

the possibility of deducing it, to some extent, from the regulation of the right to ownership, proves the lawgiver's intention to emphasize its legal value.

In order to characterise the constitutional right of succession, I have outlined its evolution in the Polish legal order, including the process of creating the current provisions by addressing the projects of the Constitution as well as the work of the Constitutional Committee of the National Assembly. I have also referred to the international and European Union's regulations in order to analyse the significance of the right of succession in international agreements as well as the constitutions of the member states of the European Union. Moreover, I have made an attempt to recognise the substance of the right of succession and its relation to other constitutional notions. In addition, I have indicated the personal and material scope of this right. Comparing the regulation of the right of succession with the provisions pertaining to the right to ownership has also been vital for the verification of my theses. Considering the specific nature of the constitutional method of regulation, it is valid to specify the particular aspects of the right of succession and its protection in statutory provisions. Therefore, an attempt to answer the question whether these provisions reflect the lawgiver's objectives adequately and, consequently, whether they grant a sufficient implementation of the constitutional regulations, is another essential component of my thesis.

The thesis consists of an introduction, four chapters and a conclusion. The first chapter, which is initiatory, depicts the right of succession as a matter of international and European Union's regulations. The models of regulation of the right of succession in the constitutions of other European countries are also presented, as well as the regulations of the right of succession in the previous Polish constitutions. The second chapter is focused on the principle of the protection of the right of succession which derives from Article 21 of the Constitution. The notion of the system founding rules, and the significance of the principle of the protection of the right of succession within the catalogue of these rules, is also discussed. The third chapter concentrates on the analysis of the right of succession as a constitutional individual right stemming from Article 64 of the Constitution. Therefore, the notion of the constitutional individual rights and freedoms is characterised. In addition, the right of succession is elaborated on as one of these rights. The fourth chapter is devoted to the issue of the realisation of the constitutional right of succession in other legislative acts in order to analyse which legal institutions of other areas of law, especially

the civil law, may grant its realisation and which may limit it. The impact of the European Union's regulations on the domestic legal system is also investigated.

The problems involved with the thesis' subject are of significance from both constitutional and civil point of view. The right of succession and its protection have their source in the Constitution (Articles 21 and 64) and are specified in statutes (mainly the Civil Code). It is also a matter of judicature of the Constitutional Tribunal and it influences the Polish citizens in their everyday life. For the above reasons and in light of it being discussed marginally in the doctrine, the constitutional right of succession is an interesting and important subject deserving a comprehensive analysis.