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Dispersed constitutional review in the Czech and Polish legal systems – a permanent constitutional practice or a need of the moment?[1]

1

Both the Czech Republic and the Republic of Poland are countries characterized by concentrated control of the constitutionality of the law carried out by specialized bodies (court/constitutional tribunal). This model is typical of countries in continental Europe, especially those belonging to the Germanic legal tradition, with a particular emphasis on the legacy of Austrian constitutionalism[2]. Dispersed review of the constitutionality of laws, on the other hand, is typical of *common law* legal systems, the best example being the United States of America. It is characterized primarily by the fact that there is no single specialized body authorized to carry it out through a specific procedure, but it can be carried out by any court in the course of the proceedings, with the most important cases being finally decided by the Supreme Court. An important difference between

[1] As far as Poland is concerned, the publication was prepared within the framework of a research project funded by the National Science Centre (competition OPUS 18, decision No 2019/35/B/HS5/03215).

[2] See further: Kustra A., Kelsenowskie podstawy sądownictwa konstytucyjnego, [in:] Sądownictwo konstytucyjne, ed. M. Granat, Warszawa 2018.

the model of centralized control of the constitutionality of the law and the model of dispersed review also concerns the effect of control. While in the centralized review model, laws that have been declared unconstitutional lose their effect, in the diffuse control system they remain a part of the existing legal system, with no application until there is a change in precedent[3].

2

Referring to the constitutional regulation of the control of the constitutionality of law in the Czech Republic, it should be noted that the 1992 Constitution[4] clearly indicates a model of centralized control by a specialized body. According to Article 95(2) of the Czech Constitution, "If a court comes to the conclusion that the law to be applied to resolve a case is contrary to the constitutional order, it shall refer the case to the Constitutional Court." At this point, it should be noted that the Czech Republic does not have a single constitutional act containing all constitutional provisions, but rather uses the concept of constitutional order or the so-called polilegal constitution, which means that there are many legal acts of constitutional rank that together form a constitutional order[5].

The above-quoted provision of the Constitution establishes clear constitutional limitations on the review of the constitutionality of laws, indicating first and foremost that the only body that can decide on the constitutionality of laws is the Constitutional Court. Moreover, it follows from the wording of Article 87(1)(b) of the Constitution that it is also reserved for the Czech Constitutional Court to review the compatibility of basic acts with the Constitution and laws[6]. In brief, the only court in the Czech Republic that can repeal a legal act on the grounds that it is inconsistent with higher-ranking legislation is the Constitutional Court. In light of the above, it might seem that the question of the admissibility of dispersed review of the constitutionality of law in the Czech Republic is clearly settled. Nevertheless, there are several interesting issues.

First, it is important to note the doctrine of constitutional interpretation of laws, which is a respect for the legislative body, which is the parliament. It means that if there are more possible ways of interpreting a provision of a law, including possible interpretations that are inconsistent with the constitutional order and interpretations that are consistent with it, the interpretation that is con-

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3 Blahož, J. Soudní kontrola ústavnosti. Srovnávací pohled. Praha: ASPI, 2001, p. 188 et seq.

4 Constitution of the Czech Republic of 16 December 1992

5 For a more detailed explanation of the concept of constitutional order, see Commentary to Article 112 of the Constitution of the Czech Republic.

6 Pursuant to Article 87 par. 3(a) of the Czech Constitution, the Supreme Administrative Court may be authorised by law instead of the Constitutional Court to repeal sub-statutory provisions on the grounds that they are incompatible with the statute. However, no such right currently exists.

sistent with the Constitution should be applied. This leads to a reduction of situations in which it would be necessary for the Constitutional Court to intervene by repealing legislation. At the same time, this principle creates space for any court, even more broadly for any administrative body applying the law, to interpretively overcome obvious contradictions of statutory provisions with the constitutional order. The doctrine can also be a tool used by the Constitutional Court should it wish to uphold a legal provision that produces unconstitutional effects due to its misinterpretation by public authorities, which is also reflected in the Constitutional Court's ability to issue an interpretive judgment.

Second, although the Czech Constitutional Court is the only court that can overrule substatutory laws (regulations and orders), Article 95(1) of the Czech Constitution stipulates that judges are bound only by laws and ratified international agreements when making decisions, so any judge is entitled to review the compliance of sub-statutory laws with these acts[7]. This power is an expression of dispersed judicial review of substatutory provisions. If substatutory provisions are inconsistent with a law or ratified international agreement, the court will apply the law or international agreement, not the substatutory provisions. However, substatutory provisions are not abrogated in this case, so they remain part of the legal system and can have effects in other cases or situations. It should be noted that this mechanism applies to conflicts between substatutory provisions and laws (or ratified international agreements), so prima facie it does not involve an assessment of the constitutionality of the relevant provisions but their legality (compliance with laws). However, during such a review, it may happen in many cases that the incompatibility of substatutory provisions with laws will also include the incompatibility of these cases with the constitutional order.

Third, dispersed control is in fact the dominant approach to overcoming the incompatibility of laws with ratified international agreements or EU law. This reflects the intention to reserve the Constitutional Court for decisions related to the Constitution and constitutional order. The Czech Constitutional Court is therefore not authorized to review the compatibility of laws with ratified international treaties and EU law, as confirmed by previous case law.

There is one important exception to this general rule, which applies to international human rights agreements. Since their content is very similar to the Czech Charter of Fundamental Rights and Freedoms, it would not make sense to introduce different protection mechanisms. Although the Czech Constitution does not specifically regulate the issue, the Czech Constitutional Court decided[8], that international agreements on human rights must be treated as if they were part of the constitutional order, and therefore on a par with constitutional acts,

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[7] See Article 10 of the Czech Constitution for more information on the position of international treaties in the Czech legal system.

[8] Pl. ÚS 36/01.

including the Czech Constitution and the Charter of Fundamental Rights and Freedoms. This means that in the case of an ordinary ratified international agreement, any court may decide not to apply a law that, in the court's view, contradicts such an agreement, while if such a law contradicts a ratified international human rights agreement, the court must act in accordance with Article 95(2) of the Czech Constitution and refer the case to the Constitutional Court.

In the case of EU law, the issue of conflicts between national and EU law is not regulated by the Czech Constitution, as a uniform regulation applicable in all member states is necessary in this regard, which can only be ensured by regulating this issue at the EU level. The jurisprudence of the Court of Justice of the European Union has developed over the years the doctrine of the superiority of EU law over national law, which means that in the event of a conflict between national law and EU law, EU law applies, and national law, despite the fact that it does not lose its validity, will not apply in a particular case. In addition, the Czech Republic also has a doctrine of EU-compatible interpretation of national law, very similar to the doctrine of constitutional interpretation of laws, which overcomes the apparent conflict between national and EU law by interpreting national law in accordance with EU law. Domestic law could therefore be applied using such an interpretation because it would not conflict with EU law.

3

The 1997 Constitution of the Republic of Poland[9], like the Czech Constitution, adopted as a basic "European" model of centralized control of the constitutionality of the law, entrusting competence in this area to a single body with a specialized character. The adoption in 1997 of the above model was a natural consequence of the 1982 regime changes[10], when, by virtue of the 1952 amendment to the Constitution of the People's Republic of Poland[11] the Constitutional Court was first introduced into the Polish system. In light of the current Constitution, the Constitutional Court exercises both abstract and concrete control over the constitutionality and legality of the law. According to Article 188 of the Constitution, the competence of this body includes control of the compliance of laws and international agreements with the Constitution, the compliance of laws with ratified international agreements whose ratification required prior consent expressed in a law, the compliance of laws issued by central state bodies with the Constitution, ratified international agreements and laws. On the

[9] Constitution of the Republic of Poland of 2 April 1997, Journal of Laws No. 78, item 483, as amended.

[10] Act of 26 March 1982 amending the Constitution of the People's Republic of Poland, Journal of Laws 1982 no. 11 item 83.

[11] Constitution of the People's Republic of Poland adopted by the Legislative Sejm on 22 July 1952, Journal of Laws No. 33, item 233.

other hand, within the framework of specific control, the Constitutional Court rules on constitutional complaints[12], as well as responds to legal questions from courts as to the compliance of a normative act with the Constitution, ratified international agreements or laws, if the resolution of a case pending before a court depends on the answer to a legal question[13]. Due to its special constitutional position, as well as the assumption that the Court is composed of lawyers with the highest competence[14] the Court is also entrusted with a number of additional competencies not directly related to the control of the constitutionality of the law, such as ruling on the constitutionality of the purposes or activities of political parties (Article 188 p. 4 of the Constitution), resolving competence disputes between the central constitutional organs of the state (Article 189 of the Constitution), and ruling on the inability of the President of the Republic to hold office when he is unable to notify the Speaker of the Sejm (Article 131 p. 1).

Without questioning the leading role of the Polish Constitutional Court in the subject of controlling the compliance of legal acts with the Constitution and other acts of higher legal force, the subject of discussion in the doctrine is the admissibility of such control by ordinary courts. Such discussion already took place in the late 1990s in connection with the entry into force of the Constitution[15]. In the first years of the Constitution, most representatives of the doctrine approached dispersed review of the constitutionality of the law with great reserve, stressing that the competence of the Constitutional Court to control the constitutionality of the law is exclusive. This was also the position of the Constitutional Court. In 2002, this position was also accepted by the Supreme Court, indicating that the only body authorized under the Constitution to control the constitutionality of the law is the Constitutional Court, and therefore, if the court has serious doubts about the constitutionality of the provision it is supposed to apply in the case it is considering, it should suspend the proceedings and refer the legal question to the Court[16]. Thus, the debate on the admissibility of dispersed control of the constitutionality of the law in Poland is over. However, in recent years, in connection with numerous controversies over the composition of the Constitutional Tribunal, the procedures for its operation and the independence of this institution, the issue of the permissibility of assessing the constitutionality of laws by the courts has again become topical.

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[12] See in more detail: *Skarga konstytucyjna*, edited by J. Trzcińskiego, Warszawa 2000..

[13] Więcek M., *Pytanie prawne sądu do Trybunału Konstytucyjnego*, Warszawa 2011.

[14] In addition to legal training, constitutional judges are required to have relevant professional experience, high morals and ethics, independence and impartiality.

[15] The following publications, among others, were an expression of the ongoing debate in the doctrine: A. Mączyński, *Bezpośrednie stosowanie Konstytucji przez sądy*, „Państwo i Prawo" 2000, No. 5, p. 5; L. Garlicki, *Trybunał a wejście w życie nowej Konstytucji*, „Państwo i Prawo" 1997, No. 11–12; idem, *Trybunał Konstytucyjny a sądownictwo*, „Przegląd Sądowy" 1998, No. 1, p. 10 et seq.,

[16] Order of the Supreme Court of 18 September 2002, III CKN 326/01; Judgment of the Supreme Court of 16 April 2004, I CK 291/03; Resolution of the Civil Chamber of the Supreme Court of 24 November 2015, II CSK 517/14;

In doing so, it should be made clear that the above debate is not about entrusting the courts with the role of the Constitutional Court, a mixed one in which the control exercised by the ordinary courts would be complementary to that exercised by a specialized constitutional court. At the outset, we briefly recalled the main assumptions of the European centralized control model and the American decentralized control model. The mixed model of review of the constitutionality of law, on the other hand, assumes that the power to control the constitutionality of law is exercised by both the specialized constitutional court and the ordinary courts. This approach contrasts with the purely centralized or decentralized model of law constitutionality review, however, combining elements found in both. A key feature of the mixed model of controlling the constitutionality of law is the presence of a specialized constitutional court while granting the power to control the constitutionality of laws to the ordinary courts as part of their regular adjudicatory functions. Thus, the control of constitutionality can take place on two tracks and the decisions of the two types of courts can influence each other, creating a dynamic interaction. In the case of a court, the possibility of reviewing the constitutionality of a law exists only when the question of the constitutionality of a legal provision is raised in the context of a specific case pending before that court. The court then assesses whether the legal provision in question is constitutional and, if it finds that there is no such constitutionality, it may refuse to apply it or apply such an interpretation of it as will ensure its constitutionality. Thus, this is an incidental control, *ad casum* and with *inter partes* effect, leading to a refusal to apply in a particular case a law deemed by a general or administrative court to be contrary to the Constitution. In contrast, when a provision of a law or other legal act is declared unconstitutional by the Constitutional Court, the effect is much more far-reaching, as the provision declared unconstitutional is eliminated from the system of applicable law.

It should be pointed out that the 1997 Polish Constitution does not explicitly refer to the possibility of a court refusing to apply a law due to its unconstitutionality. At the same time, the Constitution does not exclude such competence of common courts, indicating in Article 178 that "judges in the exercise of their office are independent and subject only to the Constitution and laws. However, as Prof. Banaszak wrote, "why should a judge be subject to the Constitution and be able to apply it directly, if he could not, when examining the constitutionality of a law, draw any conclusions from it except one - he could only dismiss the charge of unconstitutionality of the law"[17]. Nor does the above power of the courts interfere with the right granted to the courts under Article 193 of the Constitution to refer a legal question to the Constitutional Court. In a situation where it is necessary to assess the constitutionality of the provisions on which consideration of the case depends, the court can always choose whether to exercise this power or to make such an assessment itself.

[17] Banaszak B., *Commentary to art. 8*, [in:] B. Banaszak, *Konstytucja Rzeczypospolitej Polskiej. Komentarz*, Warszawa 2009, p.70.

On the other hand, however, the main argument against the power of the courts to review the constitutionality of the law has been the prohibition of the presumption of competence inherent in the principle of a democratic state of law and the principle of legalism, according to which a court or administrative body cannot presume its jurisdiction or competence over a case unless it has clear and explicit authority to do so under the law. This principle is intended to protect the rights of subjects from arbitrary assertion of jurisdiction by state bodies. The norm of competence, including the norm of competence of the courts to review the constitutionality of the law must be clearly defined in the Constitution, and cannot be implied or interpreted from other norms[18]. The argument of the rationality of the legislator also appeared in the public debate. As pointed out, the institution of constitutional complaint regulated by Article 79 of the Constitution would not make sense if the Constitution allowed a mixed model of control of the constitutionality of a law. However, it seems that the right to turn to the Constitutional Court with a constitutional complaint would still be possible, especially when the court hearing the case does not share the view of the unconstitutionality of the norm applied in the case. Otherwise, the constitutional complaint would be pointless for obvious reasons. It should also be noted that resolving in favour of an individual the issue of the unconstitutionality of a provision at an earlier stage of the proceedings would relieve the burden on the Constitutional Court by contributing to improving the efficiency of the proceedings. In addition, a constitutional complaint could still be brought against a provision of a law or other normative act, on the basis of which a public administration body has finally ruled on his freedoms or rights or on his obligations set forth in the Constitution.

As in the Czech Republic, also in Poland one of the principles guiding the courts in the process of applying the law is to interpret the law in accordance with the Constitution[19]. A similarity can also be seen when it comes to the courts' adjudication of the legality and constitutionality of substatutory acts. Also in Poland, according to Article 178 of the Constitution, judges in the exercise of their office are independent and subject only to the Constitution and laws. With regard to subordinate acts, they may review their compliance with the Constitution, laws, or other acts of higher legal force and, if the act is deemed unconstitutional, refuse to apply it[20].

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[18] J. Trzciński, *Normy kompetencyjnej nie można domniemywać. Glosa do uchwały Sądu Najwyższego*, „Rzeczpospolita", 5.12.2001.

[19] Cf. P. Tuleja, *Sądowa wykładnia prawa jako podstawa hierarchicznej kontroli norm*, [in:] K*ontrola konstytucyjności prawa a stosowanie prawa w orzecznictwie Trybunału Konstytucyjnego, Sądu Najwyższego i Naczelnego Sądu Administracyjnego*, edited by. J. Królikowski, J. Podkowik, J. Sułkowski, Warszawa 2017, p. 53 et seq.

[20] B. Łukańko, *Uprawnienie sądów do odmowy zastosowania niekonstytucyjnego przepisu aktu podustawowego a pytanie prawne do Trybunału Konstytucyjnego – konflikt efektywności po-*

New light was shed on the question of the admissibility of the mixed model of legal constitutionality under the 1997 Constitution of the Republic of Poland by the constitutional crisis[21] that began in 2015 after the parliamentary elections, in which the Law and Justice party won 51% of seats in the Sejm and 61% of seats in the Senate. The first "reforms" implemented by those in power concerned the Constitutional Court, gradually leading to its paralysis. The changes implemented, on the one hand, concerned the composition of the Constitutional Court and, on the other, were related to the procedure for hearing cases. Shortly after the elections, on November 25, 2015, the new parliamentary majority "declared invalid" five resolutions of the previous term's Sejm appointing Constitutional Court judges, and appointed five new judges itself. Following the Constitutional Court's 3 December 2015 ruling that the statutory basis for the election of two of the five judges elected by the previous parliament was unconstitutional, the new Sejm gained the right to re-elect those two seats, but with regard to the remaining three judges, whose election by the previous parliament was legal, the new Sejm had no such right[22]. In December 2015 and again in 2016, the Sejm also passed a series of so-called "remedial laws" amending the Constitutional Court Act of 2015.[23] The proposed amendments to the rules of procedure of the Constitutional Court were deemed unconstitutional in the 9 March 2016 judgment[24] as they would in practice paralyse the work of the Constitutional Court[25].

The political "takeover" of the Constitutional Court by those in power caused it to cease performing its primary function of controlling the constitutionality of the law[26]. In view of this, there was a need to consider whether, on the basis of the provisions of the Constitution, this competence can be exercised "in place of the

stępowania i pewności prawa – analiza w świetle orzecznictwa Sądu Najwyższego, [in:] *Kontrola konstytucyjności prawa a stosowanie prawa w orzecznictwie Trybunału Konstytucyjnego, Sądu Najwyższego i Naczelnego Sądu Administracyjnego*, edited by J. Królikowski, J. Podkowik, J. Sułkowski, Warszawa 2017, p. 277 et seq.

[21] See P. Radziewicz, *Kryzys konstytucyjny i paradygmatyczna zmiana konstytucji*, Państwo i Prawo 2020, Nr 10, p. 4 et seq.; *Konstytucyjny spór o granice zmian organizacji I zasad działania Trybunału Konstytucyjnego: czerwiec 2015 – marzec 2016*, edited by P. Radziewicz, P. Tuleja, Warszawa 2017; W. Sadurski, *Poland's Constitutional Breakdown*, Oxford 2019; *The dispute over the Constitutional Tribunal in Poland and its impact on the constitutional rights and freedoms*, International Comparative Jurisprudence, 2017, vol. 3, No. 2, p.153 et seq.

[22] See more: Chmielarz-Grochal A., Sułkowski J., *Wybór sędziów Trybunału Konstytucyjnego w 2015 r. jako początek głębokiego kryzysu ustrojowego w Polsce*, „Przegląd Konstytucyjny" 2018, No. 2.

[23] Act of 25 June 2015 on the Constitutional Court, Journal of Laws. 2015, item 1064; as amended.

[24] Judgment of the Constitutional Court of 9 March 2016 ref. K 47/15, OJ. 2018, item 1077.

[25] See more: *Konstytucyjny spór o granice zmian organizacji i zasad działania Trybunału Konstytucyjnego: czerwiec 2015 – marzec 2016*, edited by P. Radziewicz, P. Tuleja, Warszawa 2017.

[26] Wolny M., Szuleka M., *Narzędzie w rękach władzy. Funkcjonowanie Trybunału Konstytucyjnego w latach 2016–2021*, Raport przygotowany dla Helsińskiej Fundacji Praw Człowieka, Warszawa 2021.

Court" by the courts, in order to secure the principle of a hierarchical system of sources of law and the supreme legal force of the Constitution. Interestingly, representatives of the doctrine are almost unanimous in this regard, recognizing (often despite earlier scepticism on this issue) that dispersed review is permissible. Differences in the doctrine, however, arise with regard to whether it should become an element of permanent constitutional practice or whether it is the result of a higher necessity in connection with the ongoing constitutional crisis in Poland[27].

Acceptance of the doctrine's dispersed review of the law's constitutionality coincided with a change in jurisprudential practice. Common courts, along with the Supreme Court, began to examine the constitutionality of laws in the context of adjudicated cases, thus recognizing their jurisdiction in this regard. The review itself took various forms. Initially, the courts referred to previous rulings, which led either to direct application of the Constitution or to a pro-constitutional interpretation of laws. Soon, however, a new practice emerged. Courts began to refuse to apply laws on their own, declaring them unconstitutional (before 2015, they would have referred a legal question to the Constitutional Court in such a situation)[28]. As the centralized control of the constitutionality of laws became inefficient, the courts took it upon themselves to act to guarantee the supremacy of the Constitution, the separation of powers and the protection of individual rights and freedoms. Representatives of the doctrine overwhelmingly sided with the courts, reviving the debate on the role of the judiciary in a constitutional democracy, the various models for controlling the constitutionality of laws, and the extent of permissible interference by other authorities with the judicial power.

4

The answer to the question posed in the title will probably be provided by the constitutional practice of the coming years. The introduction of a permanent mixed model of control of the constitutionality of law could serve to strengthen the centralized model of control by eliminating problems related to, for example, the lengthiness of proceedings. In both Poland and the Czech Republic, the right of courts to declare a provision of a law unconstitutional and, conse-

[27] P. Mikuli, *W sprawie ewentualnej możliwości kontroli konstytucyjności ustaw przez sądy [in:] Szkice o zasadach i instytucjach ustrojowych II i III Rzeczypospolitej*, edited by M. Grzybowski, Kraków 2002, s. 185; P. Mikuli, *Doktryna konieczności jako uzasadnienie dla rozproszonej kontroli konstytucyjności ustaw w Polsce*, Gdańskie Studia Prawnicze 2018, vol. XI, p. 635 et seq.; Koncewicz T.T., *"Emergency Constitutional Review": thinking the unthinkable? A Letter from America, „Verfassungsblog"*, 26 marzec 2016 r., https://verfassungsblog.de/emergency-constitutional-review-thinking-the-unthinkable-a-letter-from-america.

[28] See also: Kardas P., *Rozproszona kontrola konstytucyjności prawa w orzecznictwie Izby Karnej Sądu Najwyższego oraz sądów powszechnych jako wyraz sędziowskiego konstytucyjnego posłuszeństwa*, „Czasopismo Prawa Karnego i Nauk Penalnych" 2019, an. XXIII, No. 4.

quently, to refuse to apply it, can be derived indirectly from the provisions of the Constitution. Rulings by Polish courts in recent years clearly indicate that the courts are prepared to exercise such control. During the twenty-six years of its existence, the Constitution has been commented on and interpreted many times. Nor is vertical control of the constitutionality of the law a complete novelty for the courts, since in both countries the courts have long been able to examine the compliance with laws, and less frequently with the Constitution, of executive regulations, as is clear from Article 178 of the Polish Constitution, which states that a judge is independent and subject only to laws and the Constitution, and Article 95(1) of the Czech Constitution, which states that judges are bound only by laws and ratified international agreements when making decisions. Strengthening the right of judges to review the constitutionality of the law could undoubtedly be influenced by writing it directly into the Constitution.

It should be remembered, however, that the effectiveness of the implementation of the review of the constitutionality of the law depends not only on the specific shape of statutory and constitutional regulations, but above all on the political culture, including respect by those in power for the principle of the rule of law.

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Rozproszona kontrola konstytucyjności prawa w czeskim i polskim porządku prawnym – trwała praktyka ustrojowa czy potrzeba chwili?

Streszczenie

Zarówno w Polsce, jak i Republice Czeskiej podstawowym modelem kontroli konstytucyjności prawa jest model kontroli scentralizowanej, dokonywanej przez wyspecjalizowany organ, którym jest odpowiednio Trybunał Konstytucyjny i Sąd Konstytucyjny. Niemniej jednak, pomimo że Konstytucja żadnego z tych państw nie odnosi się wprost do uprawnienia sądów do kontroli konstytucyjności w procesie stosowania prawa, tak w Polsce, jak i w Czechach uprawnienie takie można wyinterpretować z przepisów Konstytucji, co potwierdzają doktryna i praktyka orzecznicza sądów. W obu państwach sądy dokonują oceny legalności i konstytucyjności prawa w odniesieniu do aktów podustawowych, hierarchiczna kontrola norm przez sądy odbywa się również w oparciu o zasadę prokonstytucyjnej wykładni prawa. W Czechach rozproszona kontrola konstytucyjności prawa znajduje również zastosowanie w sytuacji, gdy wzorcem kontroli są umowy międzynarodowe lub prawo unijne, co jest pewną odmiennością w stosunku do rozwiązań polskich, gdzie kompetencja do badania zgodności ustaw z umowami międzynarodowymi, ratyfikowanymi za uprzednią zgodą, jest wprost przewidziana w Konstytucji. W artykule zwrócono również uwagę na wpływ kryzysu konstytucyjnego w Polsce na zmianę podejścia zarówno doktryny, jak i praktyki orzeczniczej do kwestii dopuszczalności kontroli rozproszonej w Polsce.

Słowa kluczowe: kontrola sądowa, scentralizowany model kontroli konstytucyjności prawa, zdecentralizowany model kontroli konstytucyjności prawa, mieszany model kontroli konstytucyjności prawa, prokonstytucyjna wykładnia prawa.