

# Orzecznictwo międzynarodowe w sądach krajowych

*English version below*

**Tytuł projektu:** Orzecznictwo międzynarodowe w sądach krajowych

**Kierownik projektu:** dr Oktawian Kuc, LL.M. (Harv.)

**E-mail:** [o.kuc@wpia.uw.edu.pl](mailto:o.kuc@wpia.uw.edu.pl)

**Grant naukowy:** NCN SONATA 17

**Nr rej. projektu:** 2021/43/D/HS5/00674

**Dyscyplina:** nauki prawne (prawo i instytucje międzynarodowe, prawo konstytucyjne)

**Jednostka:** Wydział Prawa i Administracji, Uniwersytet Warszawski

**Stanowisko:** doktorant/student-stypendysta (research assistant)

**Liczba stanowisk:** minimum 3

## **Opis projektu:**

Many scholars acknowledge that nowadays international and domestic judicial institutions are partners in the common judicial enterprise. They supplement, substitute, assist and refer to each other while exercising their official functions. It is not uncommon for judges of different systems and regimes to study and navigate through the jurisprudence of courts and tribunals from other jurisdictions, including the international one. Consequently, on one hand domestic courts increasingly consult international law and international jurisprudence while exercising their judicial functions, and on the other hand the international legal regime more frequently penetrates State boundaries and addresses national courts directly.

The goal of the research project is to examine what is the status and role of international jurisprudence in domestic courts in relation to judicial decisions they render. This question will be addressed from the perspective of both public international law as well of selected national constitutional regimes. In line with the assumptions of the proposed research, both a theoretical (existing legal regulations) and practical (their application in judicial practice) aspects will be analysed in detail. The structure of the project consists of three basic components. The first one concentrates on the analysis of the international normative material (relevant treaties, customary law, jurisprudence) and existing legal doctrinal studies. The second part of the project utilizes the legal-comparative method to verify the status and role of international tribunal judgments in selected national jurisdictions. The third element of the project is national in nature. The relevant provisions of Polish constitutional law and the practice of higher Polish courts will be analysed in relation to judgments of international tribunals. This research task will be supplemented with a survey conducted among Polish judges on their experiences with international jurisprudence.

Research assistants will support the project predominantly in its second part, which utilizes the legal-comparative method to verify the status and role of international tribunal judgments

in selected national jurisdictions. This will provide a global perspective; thus, the selection of jurisdictions will be carried out with an aim to ensure the adequate representation of geographic regions, legal traditions, and economic development stages of countries considered. Consequently, the research sample should include representative countries from Africa, Asia, Continental Europe, Latin America, the common-law legal tradition, and the former Soviet Union. During this part, the relevant constitutional norms together with constitutional jurisprudence relating to decisions of international tribunals will be scrutinized. Additionally, case-law of highest courts in selected jurisdictions will be analysed to select decisions referring to international jurisprudence and identify judicial practice patterns.

Each research assistant should also, within the general framework of the project, choose one specific topic of his or her choosing, which will be developed, researched and finalized with an academic article to be published. Generally, research assistants are free to choose topics of their interests, with some guidance from the project leader, focusing on specific subject-areas, jurisdictions or regions, selected international tribunals or national courts, etc. The possibilities range from traditional public international law issues (territorial disputes, use of force, etc.); human rights or IHL matters; trade, investment and other economic problems; constitutional and doctrinal considerations to practical or even empirical approaches.

More: [https://projekty.ncn.gov.pl/index.php?projekt\\_id=537565](https://projekty.ncn.gov.pl/index.php?projekt_id=537565)

#### **Opis zadań:**

- a) udział w zadaniach badawczych projektu pod kierunkiem i nadzorem kierownika projektu;
- b) zebranie i opracowanie części materiału badawczego, w tym w postaci orzeczeń sądowych ze wskazanych jurysdykcji, stosownie do swojego doświadczenia i umiejętności oraz znajomości językowych;
- c) sporządzenie jako współautor oraz samodzielnie artykułów naukowych w j. angielskim lub innym obcy;
- d) wybór własnego tematu badawczego w ramach ogólnego tematu projektu i jego opracowanie zakończone publikacją;

Nie jest wymagana osobista obecność stypendysty w wyznaczonych dniach na Uczelni. Większość zadań realizowana jest zdalnie i w trybie zadaniowego czasu pracy.

#### **Wymagania:**

- 1) status doktoranta lub studenta 4 lub 5 roku studiów jednolitych magisterskich lub studenta studiów drugiego stopnia na kierunku prawo lub pokrewne (np. nauki polityczne, administracja, stosunki międzynarodowe);
- 2) biegła znajomość j. angielskiego pozwalająca na swobodne przygotowywanie tekstów naukowych;
- 3) znajomość drugiego języka obcego umożliwiającą pracę z tekstem prawniczym (szczególnie poszukiwane: rosyjski, chiński, arabski, hiszpański, ale nie wyłącznie);
- 4) zainteresowania naukowe z zakresu tematyki projektu;
- 5) chęć pisania artykułów naukowych i prezentowania wyników badań podczas konferencji naukowych;

- 6) samodzielność i inicjatywa badawcza;
- 7) umiejętność posługiwania się i korzystania z baz naukowych i prawniczych, w tym zagranicznych;
- 8) umiejętność organizacji czasu własnego.

**Termin składania ofert:** 15 stycznia 2023 r.

**Forma składania ofert:** drogą elektroniczną na adres: [o.kuc@wpia.uw.edu.p](mailto:o.kuc@wpia.uw.edu.p) – w temacie wiadomości należy wpisać "NCN stypendysta – rekrutacja"

**Wymagane dokumenty:**

- życiorys w j. angielskim z klauzulą o treści:

„Wyrażam zgodę na przetwarzanie moich danych osobowych zawartych w moim zgłoszeniu dla potrzeb niezbędnych do realizacji procesu rekrutacji i realizacji projektu zgodnie z Rozporządzeniem Parlamentu Europejskiego i Rady (UE) 2016/679 z dnia 27 kwietnia 2016 r.”

- krótki list motywacyjny w j. angielskim wskazujący na zainteresowania naukowe, motywy udziału w projekcie, oraz proponowany temat badawczy;

- potwierdzenie znajomości j. angielskiego na wymaganym poziomie (certyfikaty, studia zagraniczne, autorstwo tekstów naukowych);

- potwierdzenie znajomości innego j. obcego;

- wykaz osiągnięć naukowych (publikacje, nagrody i wyróżnienia, wystąpienia na konferencjach, stypendia, udział w projektach badawczych, staże badawcze, itd.)

**Planowany termin rozpoczęcia realizacji zadań:** luty 2023 (możliwe rozpoczęcie również później)

**Co oferujemy:**

- 1) stypendium badawcze w kwocie 2.300-3.000 zł miesięcznie przez okres 4-8 miesięcy;
- 2) mentoring naukowy oraz pomoc w rozwoju warsztatu badawczego i kariery naukowej;
- 3) wsparcie w przygotowywaniu publikacji naukowych oraz wystąpień na konferencjach naukowych;
- 4) oficjalne uznanie udziału w projekcie badawczym.

**Rozstrzygnięcie konkursu:**

Wnioski rozpatrywane są podczas posiedzenia komisji zgodnie z regulaminem przyznawania stypendiów naukowych w projektach badawczych finansowanych ze środków Narodowego Centrum Nauki.

Wybrani kandydaci/teki mogą być zaproszeni na rozmowę kwalifikacyjną z kierownikiem projektu.

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**Research Project:** International jurisprudence in domestic courts

**Project Leader:** dr Oktawian Kuc, LL.M. (Harv.)

**E-mail:** [o.kuc@wpia.uw.edu.pl](mailto:o.kuc@wpia.uw.edu.pl)

**Research Grant:** NCN SONATA 17

**Project Number:** 2021/43/D/HS5/00674

**Scientific Discipline:** legal science (international law and institutions, constitutional law)

**Department:** Faculty of Law and Administration, University of Warsaw

**Position:** doctoral/student scholar (research assistant)

**Number of position:** minimum 3

**Project description:**

Many scholars acknowledge that nowadays international and domestic judicial institutions are partners in the common judicial enterprise. They supplement, substitute, assist and refer to each other while exercising their official functions. It is not uncommon for judges of different systems and regimes to study and navigate through the jurisprudence of courts and tribunals from other jurisdictions, including the international one. Consequently, on one hand domestic courts increasingly consult international law and international jurisprudence while exercising their judicial functions, and on the other hand the international legal regime more frequently penetrates State boundaries and addresses national courts directly.

The goal of the research project is to examine what is the status and role of international jurisprudence in domestic courts in relation to judicial decisions they render. This question will be addressed from the perspective of both public international law as well of selected national constitutional regimes. In line with the assumptions of the proposed research, both a theoretical (existing legal regulations) and practical (their application in judicial practice) aspects will be analysed in detail. The structure of the project consists of three basic components. The first one concentrates on the analysis of the international normative material (relevant treaties, customary law, jurisprudence) and existing legal doctrinal studies. The second part of the project utilizes the legal-comparative method to verify the status and role of international tribunal judgments in selected national jurisdictions. The third element of the project is national in nature. The relevant provisions of Polish constitutional law and the practice of higher Polish courts will be analysed in relation to judgments of international tribunals. This research task will be supplemented with a survey conducted among Polish judges on their experiences with international jurisprudence.

Research assistants will support the project predominantly in its second part, which utilizes the legal-comparative method to verify the status and role of international tribunal judgments in selected national jurisdictions. This will provide a global perspective; thus, the selection of jurisdictions will be carried out with an aim to ensure the adequate representation of

geographic regions, legal traditions, and economic development stages of countries considered. Consequently, the research sample should include representative countries from Africa, Asia, Continental Europe, Latin America, the common-law legal tradition, and the former Soviet Union. During this part, the relevant constitutional norms together with constitutional jurisprudence relating to decisions of international tribunals will be scrutinized. Additionally, case-law of highest courts in selected jurisdictions will be analysed to select decisions referring to international jurisprudence and identify judicial practice patterns.

Each research assistant should also, within the general framework of the project, choose one specific topic of his or her choosing, which will be developed, researched and finalized with an academic article to be published. Generally, research assistants are free to choose topics of their interests, with some guidance from the project leader, focusing on specific subject-areas, jurisdictions or regions, selected international tribunals or national courts, etc. The possibilities range from traditional public international law issues (territorial disputes, use of force, etc.); human rights or IHL matters; trade, investment and other economic problems; constitutional and doctrinal considerations to practical or even empirical approaches.

More: [https://projekty.ncn.gov.pl/index.php?projekt\\_id=537565](https://projekty.ncn.gov.pl/index.php?projekt_id=537565)

#### **Position description:**

- a) participation in research tasks under the direction and supervision of the Project Leader;
- b) collection and description of the part of the research material, including judicial decisions in selected jurisdictions, according to research experience and competences as well as language skills,
- c) drafting as a co-author and independently of academic articles in English language or other foreign language;
- d) selection of one's own research topic within the general subject of the project and its development concluded with a publication;

It is not necessary to be present personally in indicated time at the University. The majority of tasks is executed remotely and in the task-based mode.

#### **Qualifications:**

- 1) a status of a PhD student or a graduate student (including 4 or 5 year students in 5-year Master programmes) majoring in law or similar (e.g. political science, administration, international relations);
- 2) fluent English allowing for drafting of academic texts;
- 3) knowledge of a second foreign language enabling work with legal texts (especially: Russian, Chinese, Arabic, Spanish, but not exclusively);
- 4) scientific interests within the scope of the project;
- 5) willingness to draft academic articles and present research results at scientific conferences;
- 6) independence and research initiative;
- 7) knowledge of academic and legal databases, including foreign;
- 8) time-management skills.

**Deadline for application:** 15 January 2023 r.

**How to apply:** via e-mail sent to [o.kuc@wpia.uw.edu.pl](mailto:o.kuc@wpia.uw.edu.pl) – please indicate as a topic of the message: “NCN scholarship – application”

**Application components:**

- curriculum vitae in English including the personal data clause:

„Wyrażam zgodę na przetwarzanie moich danych osobowych zawartych w moim zgłoszeniu dla potrzeb niezbędnych do realizacji procesu rekrutacji i realizacji projektu zgodnie z Rozporządzeniem Parlamentu Europejskiego i Rady (UE) 2016/679 z dnia 27 kwietnia 2016 r.”

- short cover letter in English indicating your research interests, motives of participation in the project and the proposed topic of your research;

- confirmation of English skills as required (certificates, foreign studies, authorship of academic texts);

- confirmation of other foreign language skills;

- list of academic achievements (publications, awards and distinctions, presentations at conferences, scholarships, participation in research projects, research internships, etc.)

**Date of commencement of work:** February 2023 (possibility of later commencement)

**What is offered:**

- 1) research scholarship in amount between 2.300-3.000 PLN monthly for a period 4-8 months;
- 2) academic mentoring and assistance in developing own's research workshop and academic career;
- 3) support in preparing academic publications and presentations at scientific conferences;
- 4) official recognition of the participation in the research project.

**Selection:**

Applications are considered by a committee in accordance with the Regulations on granting research scholarships in research projects financed by the Polish National Science Centre.

Selected candidates may be invited for a short interview with the Project Leader.