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**POLAND**

**THE CONSTITUTIONAL TRIBUNAL ACT**

**OF 22 JULY 2016**

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ON 1 AUGUST 2016, ITEM 1157)**

**The Constitutional Tribunal Act<sup>i</sup>**

of 22 July 2016

## Chapter 1

**The jurisdiction and organisation of the Constitutional Tribunal****Article 1**

The Constitutional Tribunal of the Republic of Poland, hereinafter referred to as 'the Tribunal', shall be an organ of the judiciary, established to examine the conformity of normative acts to the Constitution, as well as to carry out other tasks laid down in the Constitution.

**Article 2**

The Tribunal shall have its seat in Warsaw.

**Article 3**

1. The Tribunal shall adjudicate on cases concerning:

- 1) the conformity of statutes and international agreements to the Constitution;
- 2) the conformity of statutes to ratified international agreements whose ratification required prior consent granted by statute;
- 3) the conformity of legal provisions issued by central state authorities to the Constitution, ratified international agreements, and statutes;
- 4) constitutional complaints;
- 5) disputes over powers between central constitutional state authorities;
- 6) the conformity to the Constitution of the purposes or activities of political parties.

2. The Tribunal shall, upon application by the President of the Republic of Poland (hereinafter referred to as 'the President of the Republic'), adjudicate on the conformity to the Constitution of bills adopted by the Polish Parliament before they are signed by the President of the Republic and international agreements before their ratification.

3. The Tribunal shall, upon application by the Marshal of the Sejm, determine the existence of an impediment to the exercise of the office by the President of the Republic, where the President of the Republic is not in a position to inform the Marshal of the Sejm of his/her incapacity to exercise the office. If the Tribunal so finds, it shall require the Marshal of the Sejm to temporarily perform the duties of the President of the Republic.

#### **Article 4**

Any court may refer a question of law to the Tribunal as to the conformity of a normative act to the Constitution, ratified international agreements, or statutes, provided that an answer to the question of law will determine a matter pending before the court referring the question.

#### **Article 5**

1. The Tribunal shall provide the Sejm and the Senate with information on significant issues arising from the activity and jurisprudence of the Tribunal. The information shall not be subject to a vote.

2. The Tribunal shall notify competent law-making bodies about any inconsistencies and gaps noticed in the law which need to be eliminated to ensure the coherence of the legal system of the Republic of Poland.

#### **Article 6**

1. The Tribunal shall be composed of 15 judges of the Tribunal.

2. A judge of the Tribunal shall be chosen by the Sejm for a nine-year term of office.

3. A judge of the Tribunal shall be chosen from among persons who hold qualifications required for the office of a judge of the Supreme Court or the Supreme Administrative Court.

4. A candidate for the office of a judge of the Tribunal shall be proposed by a group of at least 50 Sejm Deputies or the Presidium of the Sejm. A resolution of the Sejm on the election of a judge of the Tribunal shall require an absolute majority of votes cast in the presence of at least half of the total number of Sejm Deputies.

5. A person elected to assume the office of a judge of the Tribunal shall take the following oath in the presence of the President of the Republic: "I solemnly declare that, by fulfilling my duties as a judge of the Constitutional Tribunal, I will faithfully serve the Polish Nation and safeguard the Constitution of the Republic of Poland, and that I will do so with impartiality and with the utmost diligence.". The oath may be taken by adding the following wording: "So help me God".

6. Refusal to take the oath of office shall be tantamount to resignation from the office of a judge of the Tribunal.

7. After taking the oath of office, a judge of the Tribunal shall arrive at the Tribunal to assume judicial duties; the President of the Tribunal shall assign cases to the judge and create conditions that make it possible to perform the judicial duties.

#### **Article 7**

1. Judges of the Constitutional Tribunal, in the exercise of their office, shall be independent and subject only to the Constitution.

2. The basic remuneration of a judge of the Tribunal shall be the multiple of a remuneration base obtained by applying the multiplier of 5.0.

3. The remuneration base used for the determination of the basic remuneration of a judge of the Tribunal in a particular year shall be the average remuneration in the second quarter of the previous year, as published in the Official Gazette of the Republic of Poland – *Monitor Polski* by the President of the Central Statistical Office, in accordance with Article 20(2) of the Act of 17 December 1998 on Old-Age and Disability Pensions from the Social Insurance Fund (Journal of Laws – Dz. U. of 2016, item 887), subject to para 4.
4. If the average remuneration referred to in para 3 is lower than the average remuneration published for the second quarter of the year preceding the previous year, the former amount constituting the remuneration base used for the determination of the basic remuneration of a judge of the Tribunal shall be applied.
5. The remuneration of the President and Vice-President of the Tribunal shall correspond to the basic remuneration of a judge of the Tribunal, supplemented by a functional allowance determined on the basis of the remuneration base referred to in para 3, applying the respective multipliers of 1.2 and 0.8.
6. After the end of his/her term of office, a judge of the Tribunal shall have the status of a retired judge of the Tribunal.
7. After the end of the term of office, a judge of the Tribunal shall have the right to return to the position s/he held previously or to be offered an equivalent position to the one held previously. With regard to a judge who decides to exercise the said right, para 6 shall not apply.
8. Within the scope not regulated in the Act, as regards the rights and duties as well as disciplinary responsibility of the judges of the Tribunal, the provisions on the rights and duties as well as disciplinary responsibility of the judges of the Supreme Court shall be applied accordingly.

### **Article 8**

1. Consent to a judge of the Tribunal being held criminally liable or deprived of liberty shall be granted by the General Assembly of the Judges of the Tribunal, hereinafter referred to as 'the General Assembly', with the exclusion of the judge of the Tribunal indicated in the application.
2. The President of the Tribunal shall forthwith inform the General Assembly about any detention of a judge of the Tribunal and about the said President's stance taken with respect to that matter.
3. Before the adoption of a resolution concerning the issue referred to in para 1, the Tribunal shall hear an explanation provided by the judge concerned, unless this is not possible. The resolution shall be adopted by a majority of two-thirds of votes cast by the judges of the Tribunal present at the sitting of the General Assembly.
4. Until the Tribunal adopts the resolution to grant consent to a judge of the Tribunal being held criminally liable or deprived of liberty, only urgent steps shall be taken with regard to that judge.

### **Article 9**

A judge of the Tribunal shall be subject to disciplinary proceedings for a breach of law, conduct that undermines the dignity of the office of a judge of the Tribunal, or any other unethical conduct that may weaken trust in the said judge.

### **Article 10**

1. In the disciplinary proceedings in the Tribunal, adjudication shall be conducted:

- 1) in first-instance proceedings – by five judges of the Tribunal;
- 2) in second-instance proceedings – by seven judges of the Tribunal.

2. The composition of adjudicating benches and a disciplinary officer shall be selected by a draw carried out by the General Assembly. A draw to select judges for the second-instance proceedings shall not include the judges of the Tribunal who adjudicated in the first-instance proceedings.

3. A disciplinary ruling may not be challenged by a cassation appeal.

### **Article 11**

The disciplinary penalties shall be as follows:

- 1) a warning,
- 2) a reprimand,
- 3) the removal of a judge of the Tribunal from office.

### **Article 12**

1. The expiry of the mandate of a judge of the Tribunal shall be determined by the General Assembly in the case of:

- 1) the said judge's resignation from the office;
- 2) a decision of a medical committee about the permanent incapacity of a judge of the Tribunal to perform the judicial duties, on the grounds of illness, disability or loss of strength;
- 3) a conviction by a legally effective court judgment for a premeditated offence prosecuted *ex officio* or a premeditated fiscal offence;
- 4) a legally effective disciplinary ruling on the removal of the judge of the Tribunal from office.

2. The expiry of the mandate of a judge of the Tribunal due to the death of the judge shall be determined by the President of the Tribunal.

3. The General Assembly shall adopt a resolution after conducting appropriate explanatory proceedings, and in particular after examining the files of criminal or disciplinary proceedings, and hearing the person in question, unless this is not possible. In the case of

the permanent incapacity of a judge of the Tribunal to perform the judicial duties on the grounds of poor health, the Tribunal may request a competent medical entity to provide an opinion on the health of the judge of the Tribunal.

4. An act determining the expiry of the mandate of a judge of the Tribunal shall be lodged by the President of the Tribunal with the Marshal of the Sejm.

### **Article 13**

1. The following shall have the status of the organs of the Tribunal: the General Assembly of the Judges of the Tribunal, and the President of the Tribunal.

2. The General Assembly shall comprise all the judges of the Tribunal.

### **Article 14**

1. At least once a year, the President of the Tribunal shall convene a sitting of the General Assembly during which the Tribunal's activity and issues arising from its jurisprudence shall be discussed.

2. The following shall have the right to participate in the said sitting of the General Assembly: the chairpersons of relevant Sejm and Senate committees; the President of the Supreme Audit Office<sup>1</sup>; the Minister of Justice; the Public Prosecutor-General; the First President of the Supreme Court; the President of the Supreme Administrative Court; the Ombudsman; and the Ombudsman for Children.

3. The President of the Tribunal shall notify the President of the Republic, the Marshal of the Sejm, the Marshal of the Senate, and the Prime Minister about convening the said sitting of the General Assembly, and those authorities may participate in the sitting or delegate representatives.

### **Article 15**

1. The General Assembly shall be competent to:

- 1) adopt the rules of procedure of the Tribunal;
- 2) select candidates for the positions of the President and Vice-President of the Tribunal;
- 3) adopt the rules and regulations of the Office of the Tribunal;
- 4) adopt a draft estimate of the revenue and expenditure of the Tribunal;
- 5) approve the information referred to in Article 5(1);
- 6) perform other duties assigned to the General Assembly in the Act or in the rules of procedure of the Tribunal.

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<sup>1</sup> [the translator's note: in the English translation of the Polish Constitution, 'the President of the Supreme Audit Office', 'the Ombudsman', and 'the Ombudsman for Children', and are also referred to, respectively, as 'the President of the Supreme Chamber of Control', 'the Commissioner for Citizens' Rights', and 'the Commissioner for Children's Rights'; the English text of the Constitution is also available at: <<http://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm>>].

2. The General Assembly shall adopt resolutions in the presence of at least 10 of the total number of the judges of the Tribunal, specified in Article 194(1) of the Constitution, including the President or Vice-President of the Tribunal.
3. The President of the Tribunal shall notify all the judges of the Tribunal about the date and agenda of a sitting of the General Assembly no later than 7 days prior to the date of the sitting.
4. In exceptional circumstances, the General Assembly may deem that it has capacity to adopt resolutions, despite failure to observe the time-limit set in para 3. This provision shall not apply to convening a sitting of the General Assembly during which candidates will be selected for the position of the President or Vice-President of the Tribunal.
5. The President or Vice-President of the Tribunal shall preside over a sitting of the General Assembly.
6. Resolutions of the General Assembly shall be adopted by a simple majority of votes, unless the Act provides otherwise. The vote shall not be by secret ballot, unless one of the judges of the Tribunal requests otherwise.
7. The rules of procedure of the Tribunal shall be published in the Official Gazette of the Republic of Poland – *Monitor Polski* and shall enter into force on the day of their publication.

#### **Article 16**

1. The President and Vice-President of the Tribunal shall be appointed by the President of the Republic, from among three candidates proposed for each of the said positions by the General Assembly.
2. Candidates for the position of the President or Vice-President of the Tribunal shall be selected by the General Assembly from among the judges of the Tribunal who have received the largest number of votes in a secret ballot. A resolution with the list of the selected candidates shall be provided forthwith by the President of the Tribunal to the President of the Republic.
3. A sitting of the General Assembly to select candidates for the position of the President or Vice-President of the Tribunal shall be convened between the 30th and the 15th day before the end of the term of office of the incumbent President or Vice-President. Should the position of the President or Vice-President of the Tribunal become vacant before the end of the term of office, the candidates shall be selected within the time-limit of 30 days.
4. The deliberation of the General Assembly on the selection of candidates for the position of the President and Vice-President of the Tribunal shall be presided over by the oldest judge among the judges of the Tribunal who are present at that sitting of the General Assembly.
5. From the date of notification about the date of the sitting of the General Assembly referred to in para 3, but no later than until the commencement of the said sitting, a judge of the Tribunal may propose him/herself or another judge of the Tribunal as a candidate for the position of the President or Vice-President of the Tribunal. The proposal shall be made in writing and shall be lodged with the President of the Tribunal.
6. After the commencement of the sitting of the General Assembly, the President of the Tribunal shall provide the proposals to the judge presiding over the sitting, who is referred to

in para 4. On the basis of the proposals, ballot papers shall be prepared. The first and last names of the candidates proposed in accordance with the procedure specified in para 5 shall be listed on a ballot paper in alphabetical order.

7. The selection of the candidates shall be carried out if the sitting of the General Assembly is attended by at least 10 of the total number of the judges of the Tribunal, specified in Article 194(1) of the Constitution. Each judge of the Tribunal participating in the selection process shall cast only one vote, and may vote for only one candidate.

#### **Article 17**

1. The President of the Tribunal shall represent the Tribunal in relations with other authorities or entities, as well as shall perform the duties specified in the Act and the rules of procedure of the Tribunal.

2. The Vice-President of the Tribunal shall stand in for the President of the Tribunal during his/her absence, as well as shall perform other duties arising from the division of duties determined by the President of the Tribunal.

3. Where it is not possible for the President and Vice-President of the Tribunal to perform certain duties, the President of the Tribunal shall designate a judge of the Tribunal to take on the duties; where the President of the Tribunal is unable to designate a judge of the Tribunal, the oldest judge of the Tribunal shall take on the duties.

#### **Article 18**

1. The organisational and administrative working conditions in the Tribunal shall be ensured by the President of the Tribunal and the Office of the Tribunal (hereinafter referred to as 'the Office'), which is subordinate to the said President.

2. The Office shall be managed by the Head of the Office, who shall be appointed and dismissed by the General Assembly, upon motion by the President of the Tribunal.

3. The remuneration of the Head of the Office shall be determined on the basis of provisions on the remuneration of persons who hold managerial positions in state institutions, within the scope of the duties of a secretary of state.

4. A detailed scope of the Office's tasks as well as its structure shall be laid down in the rules and regulations of the Office.

5. The employees of the Office shall be subject to provisions on the employees of state offices.

#### **Article 19**

1. A draft estimate of the revenue and expenditure of the Tribunal, in the version adopted by the General Assembly, shall be incorporated into a draft State Budget by a competent minister responsible for public finance.

2. As regards the execution of the Tribunal's budget, the President of the Tribunal shall be vested with the powers of a competent minister responsible for public finance.

Chapter 2

**Proceedings before the Tribunal**

Section 1

**General Provisions**

**Article 20**

1. In the course of its proceedings, the Tribunal shall examine all significant circumstances in order to thoroughly examine a case.
2. The Tribunal shall not be bound by the evidentiary submissions of participants in proceedings, and may *ex officio* admit certain evidence which it finds useful for the determination of a case under consideration.

**Article 21**

In matters not regulated by the Act, with regard to proceedings before the Tribunal, the provisions of the Act of 17 November 1964 – the Code of Civil Procedure (Journal of Laws – Dz. U. of 2014, item 101, as amended<sup>ii</sup>) shall be applied accordingly.

**Article 22**

1. Courts and other public authorities shall be obliged to provide assistance to the Tribunal and, upon its request, present files of proceedings that are related to proceedings before the Tribunal.
2. After using the files of proceedings for evidentiary purposes, the Tribunal shall, without undue delay, return the files to a competent authority.

**Article 23**

The Tribunal may refer to the Supreme Court and the Supreme Administrative Court with a request for information on the interpretation of a provision of law in the jurisprudence of the courts.

**Article 24**

1. Hearings before the Tribunal shall be held in public, unless a special provision states otherwise. The presiding judge of an adjudicating bench may hold a hearing in camera to safeguard national security or to protect classified information labelled as 'secret' or 'top secret'.
2. The judges of the Tribunal shall be authorised to access classified information related to a case considered by the Tribunal.
3. A witness or an expert may be questioned about circumstances related to classified information labelled as 'secret' or 'top secret', after the said person is relieved from the obligation of confidentiality by a competent authority. Refusal to consent may only be justified by an important state interest.

4. A witness or an expert shall not exercise the right to refuse to testify referred to in para 3, if the Tribunal deems that such refusal is unjustified.

### **Article 25**

1. The costs of proceedings before the Tribunal shall be covered by the State Treasury, subject to para 2.
2. The Tribunal shall issue, along with a judgment granting a constitutional complaint, a decision on the reimbursement of the costs of proceedings before the Tribunal to the complainant by a public authority that issued a normative act which is the subject of the constitutional complaint. Where justified, the Tribunal may decide that the costs of proceedings before the Tribunal are to be reimbursed also when a constitutional complaint is dismissed.
3. The Tribunal may determine the costs of legal representation incurred by a complainant lodging a constitutional complaint, payable to an advocate or a legal adviser, depending on the nature of a case and the extent to which the said attorney's involvement contributed to the examination and determination of the case.

### **Article 26**

1. The Tribunal shall adjudicate:
  - 1) sitting as a full bench in cases concerning:
    - a) disputes over powers between central constitutional state authorities;
    - b) the existence of an impediment to the exercise of the office by the President of the Republic and the assignment of the temporary performance of the said President's duties to the Marshal of the Sejm;
    - c) the conformity to the Constitution of the purposes or activities of political parties;
    - d) where requested by the President of the Republic, the conformity to the Constitution of bills adopted by the Polish Parliament before they are signed by the President of the Republic or international agreements before their ratification;
    - e) the conformity to the Constitution of the Constitutional Tribunal Act;
    - f) matters that are particularly complex, upon motion by the President of the Tribunal alone, as well as when a motion for a case to be deemed particularly complex is filed by an adjudicating bench assigned for the consideration of the case, or in circumstances where particular complexity is linked with expenditure not provided for in the State Budget Act, and in particular when the adjudicating bench intends to depart from a stance taken previously in a ruling issued by a full bench of the Tribunal;
    - g) situations where three judges of the Tribunal shall – within 14 days from the date of receiving the certified copies of constitutional complaints, as well as certified copies of applications and questions of law, referred to in Article 38(1) – file a relevant motion in this respect.
  - 2) sitting as a bench of five judges of the Tribunal in cases concerning:
    - a) the conformity of statutes and international agreements to the Constitution;
    - b) the conformity of statutes to international agreements whose ratification required prior consent granted by statute;
  - 3) sitting as a bench of three judges of the Tribunal in cases concerning:
    - a) the conformity of other normative acts to the Constitution, ratified international agreements, and statutes;

- b) appeals against decisions on refusal to proceed with constitutional complaints as well as with applications pertaining to the conformity of normative acts to the Constitution, ratified international agreements, or statutes;
  - c) the exclusion of a judge of the Tribunal from the Tribunal's consideration of a case.
2. The consideration of a case by a full bench of the Tribunal shall require the participation of at least 11 judges of the Tribunal. A hearing attended by a full bench of the Tribunal shall be presided over by the President or Vice-President of the Tribunal, and where there are grounds preventing the said persons from presiding – the oldest judge of the Tribunal.
3. The composition of an adjudicating bench, including a presiding judge and a judge rapporteur, shall be indicated by the President of the Tribunal, from among all the judges of the Tribunal, in alphabetical order, taking account of the category, number and order of various applications received by the Tribunal.

### **Article 27**

1. A judge of the Tribunal shall be excluded from the Tribunal's consideration of a case if:
- 1) the judge issued, or participated in the issuing of, a relevant challenged normative act, judgment, administrative decision, or another determination;
  - 2) the judge was a representative, attorney, legal adviser or adviser of a participant in proceedings;
  - 3) there are other grounds for excluding the judge from the Tribunal's consideration of a case, as specified in Article 48 of the Act of 17 November 1964 – the Code of Civil Procedure.
2. A judge of the Tribunal shall be excluded from the Tribunal's consideration of a case – upon the judge's request, upon request by a participant in proceedings, or *ex officio* – if it is deemed probable that there are circumstances, not mentioned in para 1, which may raise doubts as to the impartiality of the judge.
3. The exclusion of a judge of the Tribunal for reasons specified in para 1 shall be determined by the President of the Tribunal, and for reasons specified in para 2 – by the Tribunal.
4. Until it is determined whether a judge of the Tribunal is to be excluded from the Tribunal's consideration of a case, the said judge may only perform urgent duties.

### **Article 28**

The following shall be participants in proceedings before the Tribunal:

- 1) an applicant that has filed an application or a complainant who has lodged a constitutional complaint;
- 2) an authority that has issued a normative act which is the subject of the application or the constitutional complaint; or the State Treasury Solicitors' Office, if the Council of Ministers has designated the State Treasury Solicitor's Office to represent the said Council or ministers in proceedings before the Tribunal;

- 3) a court that has referred a question of law to the Tribunal, provided that the court has notified about its participation in proceedings instituted by the submission of the question of law, and has designated an authorised representative from among the judges of the court;
- 4) an organ of a political party specified in the party's rules and regulations, in cases concerning the conformity to the Constitution of the purposes or activities of political parties;
- 5) a central constitutional state authority involved in a dispute over powers;
- 6) the Public Prosecutor-General;
- 7) the Sejm, the President of the Republic, and a competent minister responsible for foreign affairs, in cases concerning the conformity to the Constitution of international agreements ratified in accordance with Article 89(1) as well as Article 90(2) and (3) of the Constitution;
- 8) the President of the Republic and a competent minister responsible for foreign affairs, in cases concerning the conformity to the Constitution of other ratified international agreements;
- 9) the Ombudsman, upon notifying the Tribunal of his/her participation in proceedings;
- 10) the Ombudsman for Children, upon notifying the Tribunal of his/her participation in proceedings instituted by an application filed by the Ombudsman<sup>2</sup> or in proceedings concerning a constitutional complaint, where the rights of the child are discussed;

#### **Article 29**

The following authorities shall participate in person in a hearing to determine the existence of an impediment to the exercise of the office by the President of the Republic: the Marshal of the Sejm, the Marshal of the Senate, the First President of the Supreme Court, and the Public Prosecutor-General.

#### **Article 30**

1. Participants in proceedings before the Tribunal shall represent themselves or shall be represented by authorised representatives.
2. In proceedings before the Tribunal, the Marshal of the Sejm, the Sejm, or a group of Sejm Deputies acting as an applicant, shall be represented by a designated Sejm Deputy.
3. The provision of para 2 shall apply accordingly to the Senate.
4. The applicants referred to in paras 2 and 3 may designate, apart from the indicated representatives, no more than three attorneys who are neither Sejm Deputies nor Senators.
5. Cases considered by a full bench of the Tribunal shall require the participation of the Public Prosecutor-General or his/her deputy; cases in which a smaller panel of judges adjudicates shall require the participation of a prosecutor from the National Prosecution Office.

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<sup>2</sup> [the translator's note: whenever in this text the term 'the Ombudsman' is used, it solely refers to the Ombudsman, and never to 'the Ombudsman for Children'; the latter term is consistently rendered throughout the text, without any variation or abbreviation, as 'the Ombudsman for Children'.]

### **Article 31**

1. Procedural documents shall comprise the applications and statements of participants in proceedings, lodged with the Tribunal, outside a hearing, in the course of the proceedings.
2. Procedural documents, and any annexes thereto, should be lodged with the Tribunal in a number of copies that makes it possible to serve the documents on all the other participants in proceedings as well as to leave two other copies in the case file.

### **Article 32**

1. Proceedings before the Tribunal shall be instituted on the basis of an application, a question of law or a constitutional complaint, lodged, respectively, by a competent applicant, court or complainant.
2. Before the commencement of a hearing, the initiator of the proceedings before the Tribunal may withdraw the application, question of law or complaint.

### **Article 33**

1. An application or a question of law should meet requirements laid down for procedural documents.
2. An application filed by one of the authorities referred to in Article 191(1), points 1 to 5, of the Constitution shall comprise:
  - 1) the indication of the authority that is competent to lodge the application;
  - 2) the indication of the legal basis for action taken by the authority that is competent to lodge the application;
  - 3) the indication of the type of a procedural document;
  - 4) the indication of a challenged normative act, or part thereof;
  - 5) the indication of a higher-level norm for the review;
  - 6) justification for the application.
3. The justification referred to in para 2(6) shall comprise the following information in the order presented below:
  - 1) the wording of a provision challenged in the application, followed by the interpretation thereof;
  - 2) the wording of higher-level norms for the review, followed by the interpretation thereof;
  - 3) the formulation of a constitutional issue and an allegation about unconstitutionality;
  - 4) the indication of arguments or evidence in support of the allegation about unconstitutionality;

4. An application lodged by a group of Sejm Deputies or Senators shall be supplemented with a list of Sejm Deputies or Senators who support the application, signed by those Deputies or Senators.

5. An application lodged by an authority or organisation that is referred to in Article 191(1), points 2 to 5, of the Constitution should also include the indication of a provision of law or a provision of rules and regulations which indicates that a challenged statute or another normative act relates to matters relevant to the scope of the activity of the authority or organisation.

6. A question of law shall comprise:

- 1) the indication of an authority that has issued a challenged normative act;
- 2) the indication of the challenged normative act, or part thereof;
- 3) an allegation about the non-conformity of the challenged normative act to the Constitution, a ratified international agreement or a statute;
- 4) justification for the allegation, including evidence in support of the allegation;

7. A question of law should also indicate as to what extent an answer to the question of law may have an impact on the determination of a case with relation to which the question of law has been referred to the Tribunal; in addition, it should indicate an authority before which proceedings are pending in the said case, and the reference number of the case.

#### **Article 34**

The President of the Tribunal shall notify the other participants in proceedings about receiving an application or a question of law, provide them with certified copies of the application or the question of law, as well as inform them about their right to present their statements in writing.

#### **Article 35**

1. Participants in proceedings shall be obliged to provide all explanations with regard to a case as well as evidentiary submissions that are necessary for the thorough examination of the case.

2. Participants in proceedings shall have the right to access a relevant case file as well as prepare and receive certified copies or excerpts related thereto.

#### **Article 36**

The President of the Tribunal or the presiding judge of an adjudicating bench may permit other persons to access a case file if this is justified by an important interest of those persons or an important public interest. This shall not refer to cases which are considered in camera.

### **Article 37**

1. The President of the Tribunal shall refer the application specified in Article 33(5) to a judge of the Tribunal designated by the said President for the preliminary consideration of the said application at a sitting in camera.
2. Where the application fails to meet formal requirements, the judge of the Tribunal shall issue notification in which s/he requests that any defects be eliminated within 7 days from the date of service of the notification.
3. Where the application is manifestly unfounded or where the defects are not eliminated within the set time-limit, the judge of the Tribunal shall issue a decision on refusal to proceed with the application.
4. The applicant shall have the right to lodge an appeal in the Tribunal against the decision on refusal to proceed with the application, within 7 days from the date of service of the decision.
5. Where the time-limit specified in para 4 is not met, the Tribunal shall, at a sitting in camera, issue a decision on the dismissal of the appeal.
6. After determining that the appeal has been filed within the set time-limit, the President of the Tribunal shall refer the appeal for consideration by the Tribunal at a sitting in camera and shall determine a date for the said consideration.
7. Having granted the appeal, the Tribunal shall refer the case for consideration at a hearing. A decision not to grant the appeal may not be appealed.

### **Article 38**

1. The President of the Tribunal shall provide all the judges of the Tribunal with certified copies of applications, questions of law, and constitutional complaints, where the said documents meet formal requirements.
2. The President of the Tribunal shall refer applications and questions of law, with regard to which there are no formal reservations, for consideration at a hearing by a competent adjudicating bench, and shall determine a date for the said hearing.
3. The dates of hearings at which applications are considered shall be set in the order in which cases are received by the Tribunal.
4. The order in which cases are received by the Tribunal shall not apply to the consideration of the following:
  - 1) applications concerning the constitutionality of bills adopted by the Polish Parliament before they are signed by the President of the Republic and the constitutionality of international agreements before their ratification;
  - 2) applications concerning the conformity to the Constitution of a State Budget Bill or an Interim State Budget Bill, before they are signed;
  - 3) applications concerning the conformity to the Constitution of the Constitutional Tribunal Act;

4) applications to determine the existence of an impediment to the exercise of the office by the President of the Republic and the assignment of the temporary performance of the said President's duties to the Marshal of the Sejm;

5) applications to settle disputes over powers between central constitutional state authorities;

6) applications concerning the conformity to the Constitution of the purposes or activities of political parties.

5. The President of the Tribunal may set the date of a hearing by bypassing the requirement in para 3, if this is justified by the necessity to safeguard the rights or freedoms of citizens, national security or the constitutional order. Upon motion by 5 judges of the Tribunal, the President of the Tribunal may reconsider a decision about the date of a hearing.

6. In the event of a decision to jointly consider applications, the dates referred to in para 3 shall be determined based on the date when the first of the applications was received by the Tribunal.

### **Article 39**

The presiding judge of an adjudicating bench shall issue orders for the proper preparation of a hearing. The presiding judge may, in particular:

1) order the service of relevant documents to participants, when the documents have been filed in the course of proceedings;

2) request the participants in proceedings to provide their statements on the case, in writing and within a set time-limit;

3) order the participants in proceedings to submit documents and other material which are crucial for the examination of the case;

4) request other authorities or organisations to participate in the proceedings if s/he deems that their participation would be conducive to a thorough examination of the case.

### **Article 40**

1. The Tribunal shall, at a sitting in camera, discontinue proceedings:

1) if the issuing of a ruling is useless or inadmissible;

2) as a result of the withdrawal of an application, a question of law or a constitutional complaint;

3) if a normative act within the challenged scope has ceased to have effect before a ruling is issued by the Tribunal.

2. If the circumstances referred to in para 1 become apparent at a hearing, the Tribunal shall issue a decision on the discontinuance of the proceedings.

3. The provision of para 1(3) shall not apply, if it is necessary for the protection of constitutional rights and freedoms to issue a ruling on a normative act that has ceased to have effect before the issuance of the ruling.

#### **Article 41**

The internal organisation of work carried out with regard to applications, constitutional complaints and questions of law shall be specified in the rules of procedure of the Tribunal.

#### **Section 2**

#### **Proceedings on the conformity to the Constitution of ratified international agreements and normative acts as well as proceedings on questions of law**

#### **Article 42**

1. At a hearing, the participation of an authority that has issued a normative act being the subject of an application, or the participation of a representative of the authority, shall be mandatory.
2. At a hearing concerning the conformity of ratified international agreements to the Constitution, it shall be mandatory to participate in the hearing for the representatives of the following: the President of the Republic, a competent minister responsible for foreign affairs, and the Public Prosecutor-General; in the case of international agreements ratified in accordance with Article 89(1) as well as Article 90(2) and (3) of the Constitution – also for a representative of the Sejm.

#### **Article 43**

When adjudicating on the conformity of a normative act or a ratified international agreement to the Constitution, the Tribunal shall examine not only the content of the said act or agreement, but also the competence for issuing the act or for entering into and ratifying the agreement, as well as the observance of a relevant procedure for doing so, required by the provisions of law.

#### **Article 44**

Where the President of the Republic requests the Tribunal to determine the conformity to the Constitution of a State Budget Bill or an Interim State Budget Bill, before they are signed, the Tribunal shall adjudicate on that matter no later than within 2 months from the date of the submission of the application in the Tribunal.

#### **Article 45**

1. As regards cases concerning the conformity of a normative act to the Constitution in which a ruling of the Tribunal may require incurring expenses which have not been provided for in statutes referred to in Article 44, the President of the Tribunal shall request the Council of Ministers to present an opinion on the matter within the time-limit of 2 months.
2. Failure to present its opinion by the Council of Ministers within the time-limit set in para 1 shall not prevent the consideration of the case.

#### **Article 46**

The provisions of Articles 42 to 45 shall apply accordingly to the consideration of questions of law.

## Section 3

**Adjudication on constitutional complaints****Article 47**

1. A constitutional complaint may be lodged after a complainant has exhausted all legal means, if such means are provided for, and within 3 months of the date when the complainant was served with a legally effective judgment, a final decision or another final determination.

2. A constitutional complaint shall be considered by the Tribunal in accordance with the rules and procedure for the consideration of applications concerning the conformity of statutes to the Constitution as well as the conformity of other normative acts to the Constitution or statutes, with the exclusion of requirements concerning the consideration of cases in the order in which the cases are received by the Tribunal.

**Article 48**

1. Apart from meeting the requirements for a procedural document, a constitutional complaint should:

1) precisely specify a statute or another normative act upon which basis a court or a public administration authority has made a final decision on the complainant's freedoms, rights or obligations specified in the Constitution, and with regard to which the complainant requests the Tribunal to determine non-conformity to the Constitution;

2) indicate which constitutional freedom or right of the complainant, and in what way, according to the complainant, has been infringed;

3) provide justification for the complaint, including a detailed description of the facts of the case.

2. A constitutional complaint shall be filed together with a judgment, a decision, or another determination, with the indication of the date of the service thereof, when such a determination was issued on the basis of a normative act challenged in the complaint.

**Article 49**

1. A constitutional complaint, or an appeal against a decision on refusal to proceed with the complaint, shall be drawn up by an advocate or a legal adviser, unless the complainant is a judge, a public prosecutor, a notary public, a professor of law, or a scholar with a post-PhD degree in Law (Pl. *doktor habilitowany*).

2. Where the complainant cannot cover the costs of legal representation, the said complainant may lodge a request with the district court of his/her place of residence for an advocate or a legal adviser to be appointed by the court to represent the complainant on the basis of the provisions of the Act of 17 November 1964 – the Code of Civil Procedure. Until the court issues a determination with regard to the request, the time-limit provided for in Article 47(1) shall not run.

### **Article 50**

A constitutional complaint shall be subject to preliminary consideration; the provisions of Article 37 shall apply accordingly.

### **Article 51**

1. The Tribunal may issue a provisional decision about the suspension of the execution of a determination in the case with regard to which a constitutional complaint has been lodged with the Tribunal, if the execution of a judgment, a decision or another determination could cause irrevocable consequences resulting in serious damage for the complainant, or when the said suspension is justified by an important public interest or a different important interest of the complainant.

2. The provisional decision shall be served forthwith on the complainant and the competent judicial or enforcement authority.

3. The Tribunal shall revoke its provisional decision when reasons for the issuance of the decision have ceased to exist.

### **Article 52**

1. The Tribunal shall notify the Ombudsman and the Ombudsman for Children about the institution of proceedings; the provision of Article 34 shall apply accordingly.

2. Within 30 days from the date of receiving the notification, the Ombudsman and the Ombudsman for Children may inform the Tribunal about their participation in proceedings.

### **Article 53**

1. The following shall be participants in proceedings before the Tribunal: a complainant who has lodged a constitutional complaint; an authority that has issued a challenged normative act; or the State Treasury Solicitors' Office, if the Council of Ministers has designated the State Treasury Solicitor's Office to represent the said Council or ministers in the proceedings before the Tribunal; and the Public Prosecutor-General; also, the Ombudsman, upon notifying the Tribunal of his/her participation in the proceedings; as well as the Ombudsman for Children, upon notifying the Tribunal of his/her participation in proceedings instituted by an application filed by the Ombudsman<sup>3</sup> or in proceedings concerning a constitutional complaint, where the rights of the child are discussed.

2. A hearing shall take place irrespective of the absence of any of the participants in the proceedings.

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<sup>3</sup> See n. 2.

## Section 4

**Proceedings to settle disputes over powers****Article 54**

1. The Tribunal shall settle disputes over powers where two, or more, central constitutional state authorities consider themselves competent to determine the same matter or have delivered a determination with regard to that matter (the so-called 'positive power dispute'), or where the authorities consider themselves to lack competence to determine a particular matter (the so-called 'negative power dispute').

2. An application to settle a dispute over powers should indicate actions, or lack thereof, challenged in the dispute as well as a provision of the Constitution, or of a statute, which has been infringed.

**Article 55**

1. The institution of proceedings before the Tribunal shall result in a stay of proceedings before the authorities that are involved in the dispute over powers.

2. After hearing the arguments of the participants in proceedings, the Tribunal may issue a decision to temporarily resolve disputable matters, and in particular to suspend any enforcement actions, if this is necessary to prevent serious damage or to protect a particularly important public interest.

## Section 5

**Proceedings to determine the conformity to the Constitution of the purposes or activities of political parties****Article 56**

1. The Tribunal shall determine persons who are authorised to represent a political party on the basis of a relevant statute as well as the rules and regulations of the party.

2. Where it may not be determined who is authorised to represent a political party, or where it is impossible to contact that person, or where there has been a change of the authorised person after an application has been filed with the Tribunal, the Tribunal shall deem that the authorised person is the actual leader of the party at the time when the party undertook unconstitutional activities that are challenged in the application.

**Article 57**

An application concerning the conformity to the Constitution of the purposes of a political party, which are specified in the rules and regulations as well as manifesto of the political party, shall be considered by the Tribunal in accordance with the rules and procedure for the consideration of applications concerning the conformity of normative acts to the Constitution.

### **Article 58**

1. An application concerning the conformity to the Constitution of the activities of a political party shall be considered by the Tribunal by applying the provisions of the Act of 6 June 1997 – the Code of Criminal Procedure accordingly (Journal of Laws – Dz. U. of 1997 No. 89, item 555, as amended<sup>iii</sup>).
2. The burden of proving the non-conformity to the Constitution of the activities of a political party shall lie with the applicant, who should present or report evidence in support of the non-conformity.

### **Article 59**

In order to gather and document evidence concerning the conformity to the Constitution of the activities of a political party, the Tribunal may commission the Public Prosecutor-General to conduct an investigation in this respect. With regard to the investigation, the provisions of the Act of 6 June 1997 – the Code of Criminal Procedure shall be applied accordingly. The scope of the investigation specified in the Tribunal's decision shall be binding.

## **Chapter 3**

### **The rules and procedure for adjudication**

#### **Section 1**

#### **Hearings and sittings**

### **Article 60**

1. Applications in cases indicated in Article 3 shall be considered by the Tribunal at a hearing.
2. The Tribunal may consider a constitutional complaint at a sitting in camera, if it is indisputable, after analysing written statements submitted by the participants in proceedings, that a normative act upon which basis a court or a public administration authority has made a final decision on the complainant's constitutional freedoms, rights or obligations is inconsistent with the Constitution. A ruling issued in accordance with this procedure shall be subject to public delivery.

### **Article 61**

1. A hearing may not be held earlier than after 30 days following the service of the notification about the date of the hearing.
2. The time-limit referred to in para 1 shall not apply to the review of a State Budget Bill or an Interim State Budget Bill, before they are signed, as well as to the consideration of an application to determine the existence of an impediment to the exercise of the office by the President of the Republic, referred to in Article 3(3); in both contexts, the Tribunal should commence its examination forthwith.
3. With regard to questions of law, constitutional complaints and disputes over powers between central constitutional state authorities, the President of the Tribunal may order that the time-limit set in para 1 be shortened by half, unless the court referring the question of

law, the complainant or the applicant, respectively, objects to this within 7 days from the date of service of the order issued by the President of the Tribunal.

4. At a hearing, the participation of an applicant shall be mandatory. In the event of the absence of the applicant or his/her representative, the Tribunal shall discontinue the proceedings or adjourn the hearing.

5. In the event of the absence of participants in proceedings whose attendance at a hearing is mandatory, or their representatives, the Tribunal may adjourn the hearing and, at the same time, set a new date for the hearing. The requirement specified in para 1 shall not apply.

6. In the event of the absence of the Public Prosecutor-General, or his/her representative, at a hearing, where the said persons have been notified in a proper way, the consideration of a case shall not be suspended, unless the Act provides for the obligation of participation in the hearing.

7. In the event of the absence of other participants at a hearing, the consideration of the case shall not be suspended; in such a situation, at the hearing the judge rapporteur shall present the stance of the absent participant.

8. The Tribunal shall adjourn a hearing where there is no evidence that the notification about the date of the hearing has been served on the participants in proceedings, or where it has been deemed that the notification was not properly served; the Tribunal may also adjourn a hearing for other serious reasons.

#### **Article 62**

A hearing shall commence with the indication of a relevant case; then, an applicant and, subsequently, the other participants in proceedings shall present their statements and evidence in support thereof. For this reason, the presiding judge shall allow each participant to have the floor.

#### **Article 63**

1. The presiding judge of an adjudicating bench shall preside over a hearing and shall issue orders that are necessary to keep order at the hearing, and – where necessary – s/he shall take measures provided for in the Act of 27 July 2001 on the Organisational Structure of Common Courts (Journal of Laws – Dz. U. of 2015 item 133, as amended<sup>iv</sup>) so as to maintain the dignity of the court.

2. Participants in proceedings shall have the right to appeal to the adjudicating bench against the orders of the presiding judge issued in the course of a hearing.

#### **Article 64**

1. A recording clerk shall prepare the minutes of a hearing, under the direction of the presiding judge.

2. The minutes should include:

1) the date and place of the hearing; the first and last names of the following: the judges from the adjudicating bench, the recording clerk, the participants in proceedings, as well as

their representatives and attorneys; and also the reference number of the case with information whether the case was considered in public or in camera;

2) the course of the hearing, and in particular the motions and statements of the participants in proceedings; the outcome of evidentiary proceedings; the indication of orders and rulings issued at the hearing, as well as information about the delivery thereof.

3. The participants in proceedings may request that the minutes be corrected or supplemented until the date of the delivery of a ruling; and in the case of the minutes from the hearing where the ruling was delivered – within 14 days from the date of the hearing.

4. The minutes shall be signed by the presiding judge of the adjudicating bench and the recording clerk. A note about any corrections made in the minutes shall be signed by the presiding judge.

5. The motions referred to in para 3 shall be determined by the presiding judge by issuing an order, after hearing the recording clerk. The order may not be appealed.

6. Apart from drawing up the minutes, the course of a hearing may be documented by means of shorthand notes or a sound recording. A transcript of the shorthand notes or of the sound recording shall be enclosed with the minutes.

#### **Article 65**

When the Tribunal deems that a case has been sufficiently examined, the presiding judge of the adjudicating bench shall close the hearing.

#### **Article 66**

Where the Act does not provide for the consideration of a case at a hearing, the Tribunal shall determine the case at a sitting.

#### **Section 2**

#### **Rulings of the Tribunal**

#### **Article 67**

When adjudicating, the Tribunal shall be bound by the scope of an application, a question of law or a constitutional complaint.

#### **Article 68**

1. The Tribunal shall issue a ruling after deliberation in camera, held by the judges adjudicating on a particular case.

2. Deliberation shall comprise a discussion and vote on a ruling and main reasons for the ruling, as well as the drawing up of the ruling.

3. Deliberation shall be presided over by the presiding judge of an adjudicating bench.

4. In a particularly complex case, or for other serious reasons, the issuing of a ruling may be deferred for a period not exceeding 14 days.

5. During deliberation by a full bench of the Tribunal, at least four judges of the Tribunal may raise an objection to a proposed determination, if they deem that a given matter is of great significance for the constitutional order or the public order, and they disagree with the determination.

6. Where the objection referred to in para 5 is raised, the deliberation shall be adjourned for 3 months, and at the next deliberation held after the lapse of the said time-limit, the judges who raised the objection shall present their joined proposal for a new determination.

7. If, during the next deliberation referred to in para 6, again at least four judges of the Tribunal raise an objection, the deliberation shall be adjourned for another 3 months. After the lapse of that time-limit, another deliberation and vote shall be held.

#### **Article 69**

1. A ruling of the Tribunal shall be determined by a simple majority vote.

2. The presiding judge of an adjudicating bench shall request the judges to cast their votes in the order based on their age, beginning with the youngest judge; the presiding judge shall cast the last vote.

3. A judge of the adjudicating bench who disagrees with the majority of the bench voting in favour of a ruling may, before the delivery of the ruling, submit a dissenting opinion, providing a written statement of grounds for his/her dissent; the dissenting opinion shall be mentioned in the ruling. The dissenting opinion may also refer only to the statement of reasons for the ruling.

4. The ruling shall be signed by all the judges of the adjudicating bench, including the outvoted judge.

#### **Article 70**

A ruling of the Tribunal may refer to an entire normative act or to particular provisions thereof.

#### **Article 71**

1. The Tribunal shall issue judgments in cases concerning:

1) the conformity of statutes and international agreements to the Constitution;

2) the conformity of statutes to ratified international agreements whose ratification required prior consent granted by statute;

3) the conformity of legal provisions issued by central state authorities to the Constitution, ratified international agreements, and statutes;

4) constitutional complaints;

5) the conformity to the Constitution of the purposes or activities of political parties.

2. The Tribunal shall issue decisions:

- 1) in cases to settle disputes over powers between central constitutional state authorities;
- 2) in cases to determine whether or not there exists an impediment to the exercise of the office by the President of the Republic;
- 3) in cases to assign the Marshal of the Sejm with the temporary performance of the duties of the President of the Republic;
- 4) in other cases which do not require the issuing of a judgment.

#### **Article 72**

1. A ruling of the Tribunal should indicate:

- 1) the composition of an adjudicating bench, and a recording clerk;
- 2) the date and place of issuing the ruling;
- 3) an applicant who instituted proceedings before the Tribunal, and the other participants in the proceedings;
- 4) in a precise way, a normative act that is addressed in the ruling;
- 5) allegations raised by an applicant or by a complainant lodging a constitutional complaint;
- 6) a determination arrived at by the Tribunal, including the outcome of a vote carried out by the judges of the adjudicating bench.

2. Where the Tribunal decides that a normative act will cease to have effect after the date of the delivery of its ruling in which the Tribunal determines the non-conformity of the act to the Constitution, a ratified international agreement or a statute, the ruling shall specify a date when the act ceases to have effect.

3. The Tribunal shall, no later than within one month from the date of the delivery of its ruling, prepare a written statement of reasons for the ruling; the statement of reasons shall be signed by the judges of the Tribunal who have voted on the ruling.

4. If any of the judges referred to in para 3 cannot sign the aforementioned statement of reasons, the presiding judge of the adjudicating bench shall note down, on the ruling, the reason for the lack of the signature; if the statement of reasons cannot be signed by the presiding judge, the reason for the lack of the signature shall be noted down on the ruling by the oldest judge of the judges of the Tribunal who have voted on the ruling.

#### **Article 73**

The provisions of Article 72(1), (3) and (4) shall apply accordingly to rulings on the non-conformity of ratified international agreements with the Constitution, as well as to the statements of reasons for the rulings and the submission of any dissenting opinions.

**Article 74**

1. An adjudicating bench of the Tribunal may at any point, by issuing a decision at a sitting in camera, correct any inaccuracies, linguistic or calculation mistakes, or any other obvious errors in a ruling or the statement of reasons for the ruling.
2. The original ruling – and where requested by the participants in the proceedings, also certified copies of the ruling served on them – shall include a note about corrections, signed by the presiding judge of the adjudicating bench.

**Article 75**

1. Where requested by a participant in proceedings, the adjudicating bench that has issued a ruling at a sitting in camera shall address any doubts concerning the content of the ruling, by issuing a decision in this respect.
2. If a request for dispelling doubts concerning the content of the ruling may not be considered by the adjudicating bench indicated in para 1, the request shall be considered by an adjudicating bench composed of the same number of judges as the bench indicated in para 1.

**Article 76**

1. The Tribunal's decisions that conclude proceedings shall be issued at a sitting in camera. They shall require a statement of reasons.
2. The Tribunal's decisions that do not conclude proceedings in a case may be revoked or modified due to a change in circumstances.

**Article 77**

With regard to matters concerning the preparation of a hearing or a sitting as well as procedural matters, orders shall be issued.

**Article 78**

1. A ruling shall be written down and then it shall be delivered in the presence of participants in proceedings. During the delivery of the ruling, everyone present in the courtroom, except for the judges of the adjudicating bench, shall remain standing.
2. When justifying the ruling, the presiding judge or the judge rapporteur shall speak of main reasons for the ruling and shall inform about the submission of any dissenting opinions. A judge who has submitted a dissenting opinion shall present main reasons for his/her stance.

**Article 79**

The Tribunal's rulings delivered in accordance with the procedure set out in Article 78 shall be served forthwith on the participants in proceedings, after the statements of reasons have been drawn up.

### **Article 80**

1. Judgments of the Tribunal shall be published, subject to para 2, in *Dziennik Ustaw Rzeczypospolitej Polskiej* (Eng. Journal of Laws of the Republic of Poland).
2. The Tribunal's judgments on the non-conformity of normative acts to the Constitution, ratified international agreements, or statutes shall be published forthwith in the official publication in which the original normative act was promulgated; where a ruling of the Tribunal concerns a normative act that has not been promulgated, the ruling shall be published in the Official Gazette of the Republic of Poland – *Monitor Polski*.
3. Decisions referred to in Article 71(2), points 1 to 3, shall be published in the Official Gazette of the Republic of Poland – *Monitor Polski*.
4. The President of the Tribunal shall lodge an application with the Prime Minister for the publication of both judgments and the decisions referred to in Article 71(2), points 1 to 3. The publication shall take place in accordance with the rules and procedure laid down in the Constitution and in the Act of 20 July 2000 on the Promulgation of Normative Acts and Certain Other Legal Acts (Journal of Laws – Dz. U. of 2016, item 296).

### **Article 81**

1. The Tribunal shall publish its rulings in an official collection.
2. The title '*Orzecznictwo Trybunału Konstytucyjnego*' (Eng. Jurisprudence of the Constitutional Tribunal) shall be subject to copyright.

### **Chapter 4**

#### **Amending provisions, transitional provisions, provisions adapting relevant provisions, and final provisions**

### **Article 82**

In the Act of 27 June 1997 on Political Parties (Journal of Laws – Dz. U. of 2011, item 924, as well as of 2015, items 1064 and 1485), Article 43 shall read as follows:

"Article 43. A procedure for examining cases referred to in Article 42 shall be specified in the Constitutional Tribunal Act of 22 July 2016 (Journal of Laws – Dz. U. of 2016, item 1157)."

### **Article 83**

1. In cases that were pending before the Tribunal prior to the entry into force of this Act, the provisions of this Act shall apply.
2. The Tribunal shall be obliged to determine cases referred to in para 1 within one year from the date of entry into force of the Act. The time-limit of one year shall not apply to cases specified in Article 84.

### **Article 84**

1. Where applications filed by authorities referred to in Article 191(1), points 1 to 5, of the Constitution were not determined before the date of entry into force of this Act, the Tribunal

shall – within 14 days from the date of entry into force of the Act – stay proceedings for a period of 6 months, and shall request the applicants to supplement their applications in compliance with the requirements set out in Article 33(2)-(5).

2. Where an application referred to in para 1 is supplemented in compliance with the requirements set out in Article 33(2)-(5) after the lapse of the time-limit provided for in para 1, the Tribunal shall decide about resuming the stayed proceedings. Otherwise, the proceedings shall be discontinued.

#### **Article 85**

1. If the date of a hearing was set prior to the date of entry into force of this Act, the hearing shall be deferred, and the composition of the adjudicating bench shall be adjusted in accordance with the provisions of this Act.

2. The date of the hearing shall be set anew. The hearing shall be conducted in accordance with the provisions of this Act.

#### **Article 86**

If, prior to the date of entry into force of this Act, the date of the public delivery of a ruling was set, the delivery of the ruling shall be deferred, and the composition of the adjudicating bench and the requirements for the ruling shall be adjusted in accordance with the provisions of this Act.

#### **Article 87**

1. Cases referred for preliminary consideration on the basis of Article 77(1) of the Constitutional Tribunal Act of 25 June 2015 (Journal of Laws – Dz. U. of 2016, item 293) shall be considered in compliance with the provisions on preliminary consideration laid down in this Act.

2. With regard to applications filed by authorities referred to in Article 191(1), points 3 to 5, of the Constitution as well as to constitutional complaints, where the applicants or complainants were requested to eliminate formal defects before the date of entry into force of this Act, further proceedings shall be governed by the provisions on preliminary consideration laid down in this Act.

#### **Article 88**

In cases in which the Council of Ministers presented its stance, acting as a participant in proceedings referred to in Article 135(1) of the Constitutional Tribunal Act of 25 June 2015, or notified the Tribunal about its participation in proceedings on the basis of Article 135(2) of the said Act, the Council of Ministers shall participate in the proceedings.

#### **Article 89**

The Tribunal's rulings issued in breach of the provisions of the Constitutional Tribunal Act of 25 June 2015 before 20 July 2016 shall be published within 30 days from the entry into force of this Act, with the exception of rulings concerning normative acts that have ceased to have effect.

### **Article 90**

The judges of the Tribunal who have taken the oath of office before the President of the Republic, and who have not so far assumed the judicial duties, shall be included in adjudicating benches of the Tribunal, and shall be assigned cases, by the President of the Tribunal as of the date of entry into force of this Act.

### **Article 91**

The Constitutional Tribunal Act of 25 June 2015 shall cease to have effect.

### **Article 92**

This Act shall enter into force after the lapse of 14 days from the date of its publication.

The President of the Republic of Poland: *A. Duda*

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<sup>i</sup> This Act amends the Act of 27 June 1997 on Political Parties.

<sup>ii</sup> Changes in the consolidated text of the said Act were published in the following Journals of Laws: of 2014, items 293, 379, 435, 567, 616, 945, 1091, 1161, 1296, 1585, 1626, 1741 and 1924; of 2015, items 2, 4, 218, 539, 978, 1062, 1137, 1199, 1311, 1418, 1419, 1505, 1527, 1567, 1587, 1595, 1634, 1635, 1830 and 1854; as well as of 2016, items 195, 437 and 868.

<sup>iii</sup> Changes in the consolidated text of the said Act were published in the following Journals of Laws: of 1999 No. 83, item 931; of 2000 No. 50, item 580, No. 62, item 717, No. 73, item 852 and No. 93, item 1027; of 2001 No. 98, item 1071 and No. 106, item 1149; of 2002 No. 74, item 676; of 2003 No. 17, item 155, No. 111, item 1061 and No. 130, item 1188; of 2004 No. 51, item 514, No. 69, item 626, No. 93, item 889, No. 240, item 2405 and No. 264, item 2641; of 2005 No. 10, item 70, No. 48, item 461, No. 77, item 680, No. 96, item 821, No. 141, item 1181, No. 143, item 1203, No. 163, item 1363, No. 169, item 1416 and No. 178, item 1479, of 2006 No. 15, item 118, No. 66, item 467, No. 95, item 659, No. 104, item 708 and 711, No. 141, item 1009 and 1013, No. 167, item 1192 and No. 226, item 1647 and 1648; of 2007 No. 20, item 116, No. 64, item 432, No. 80, item 539, No. 89, item 589, No. 99, item 664, No. 112, item 766, No. 123, item 849 and No. 128, item 903, of 2008 No. 27, item 162, No. 100, item 648, No. 107, item 686, No. 123, item 802, No. 182, item 1133, No. 208, item 1308, No. 214, item 1344, No. 225, item 1485, No. 234, item 1571 and No. 237, item 1651; of 2009 No. 8, item 39, No. 20, item 104, No. 28, item 171, No. 68, item 585, No. 85, item 716, No. 127, item 1051, No. 144, item 1178, No. 168, item 1323, No. 178, item 1375, No. 190, item 1474 and No. 206, item 1589, of 2010 No. 7, item 46, No. 98, item 626, No. 106, item 669, No. 122, item 826, No. 125, item 842, No. 182, item 1228 and No. 197, item 1307; of 2011 No. 48, item 245 and 246, No. 53, item 273, No. 112, item 654, No. 117, item 678, No. 142, item 829, No. 191, item 1135, No. 217, item 1280, No. 240, item 1430, 1431 and 1438 and No. 279, item 1645; of 2012 item 886, 1091, 1101, 1327, 1426, 1447 and 1529; of 2013 item 480, 765, 849, 1247, 1262, 1282 and 1650; of 2014 item 85, 384, 694, 1375 and 1556; of 2015 item 21, 290, 396, 1185, 1186, 1334, 1788, 1855 and 2281; as well as of 2016 item 178 and 437.

<sup>iv</sup> Changes in the consolidated text of the said Act were published in the following Journals of Laws: of 2015 items 509, 694, 1066, 1224, 1309, 1311, 1418, 1595 and 1781; as well as of 2016 items 147, 437, 633 and 960.