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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

POLAND

**DRAFT ACT ON THE CONSTITUTIONAL TRIBUNAL
ADOPTED BY THE SEJM IN THE SECOND READING
ON 7 JULY 2016**

(Sejm Paper No. 693)

(Unofficial translation)

SEJM
OF THE REPUBLIC OF POLAND
VIIIth term

Paper no. 693

REPORT
OF THE JUSTICE AND HUMAN RIGHTS COMMITTEE

on the parliamentary bill on the Constitutional Tribunal (paper no. 558)

The Sejm, at its 20th sitting on 10 June 2016 - on the basis of art. 39 para. 2 of the rules of procedure of the Sejm- submitted the abovementioned bill for consideration to the Justice and Human Rights Committee.

The Justice and Human Rights Committee after considering the abovementioned bill at the sitting on 5 July 2016

proposes that:

The enclosed bill is kindly adopted by the High Sejm.

Warsaw, 6 July 2016

Rapporteur
/-/Bartomiej Wróblewski

Chairman of the Commission
/-/Stanisław Piotrowicz

Bill

ACT

of..... 2016
on the **Constitutional Tribunal**¹

Chapter 1

Jurisdiction and Organisation of the Constitutional Tribunal

Art. 1. The Constitutional Tribunal, hereinafter the 'Tribunal', shall be an organ of court authority, appointed to examine the constitutionality of normative acts and international agreements and implement other tasks specified in the Constitution.

Art. 2. The seat of the Tribunal shall be in Warsaw.

Art. 3. 1. The Tribunal shall adjudicate on the following matters:

- 1) the constitutionality of laws and international agreements;
- 2) the conformity of laws with ratified international agreements whose ratification requires prior consent granted by law;
- 3) the conformity of legal provisions enacted by central constitutionally-recognised state authorities with the Constitution, ratified international agreements and laws;
- 4) complaints concerning constitutional infringements;
- 5) disputes between central constitutionally-recognised state authorities over their powers,
- 6) the constitutionality of the objectives and/or activity of political parties.

2. The Tribunal shall, upon request of the President of the Republic of Poland, decide upon the constitutionality of a law prior to the conclusion thereof and of an international agreement prior to the ratification thereof.

3. The Tribunal shall, upon request of the Marshal of the Sejm, adjudicate in any matter referring to an impediment to the exercise of office by the President of the Republic of Poland, where the President is not able to notify the Marshal of the Sejm about his/her inability to exercise the office. If a temporary inability to perform the office by the President has been found, the Tribunal shall vest the temporary performance of the duties of the President of the Republic of Poland in the Marshal of the Sejm.

Art. 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 laws if the answer to this question of law determines the matter pending before the court.

Art. 5. 1. The Tribunal shall inform the Sejm and the Senate about substantial problems arising from the activities and rulings of the Tribunal. This information shall not be subject to voting.

2. The Tribunal shall submit to the competent law-making bodies observations concerning irregularities and gaps found in the law, removal of which would be indispensable to ensure the integrity of the legal system of the Republic of Poland.

Art. 6. 1. The Tribunal shall be composed of fifteen judges of the Tribunal.

2. The judges of the Tribunal are elected by the Sejm for a period of nine years.

¹ The present Act amends the Act of 15 July 1987 on the Commissioner for Citizen's Rights and the Act of 27 June 1997 on political parties.

3. A judge of the Tribunal may be a person who possesses the necessary qualifications to hold the office of a judge of the Supreme Court or the Chief Administrative Court

4. Candidates for the office of a judge of the Tribunal shall be nominated by at least 50 deputies or the Presidium of the Sejm. A resolution of the Sejm concerning the election of a judge of the Tribunal shall require an absolute majority of votes in the presence of at least half of the total number of deputies

5. A person elected to the office of a judge of the Tribunal shall take the following oath in the presence of the President of the Republic of Poland: 'I do solemnly swear that in discharging the duties which have been vested in me as a judge of the Constitutional Tribunal, I shall faithfully serve the Polish Nation, safeguard the Constitution and perform all such duties impartially and with the utmost diligence'. The oath may be taken by adding the following sentence: 'So help me God'.

6. The refusal to take the oath shall be equivalent to a resignation from the office of a judge of the Tribunal.

7. After taking the oath, the judge of the Tribunal appear in the Tribunal in order to assume his/her duties, and the Tribunal shall assign him/her a caseload and create conditions that allow the judge to fulfil his/her duties.

Art. 7. 1. Whilst exercising their office, the judges of the Tribunal shall be independent and subject only to the Constitution.

2. The basic remuneration of a judge of the Tribunal shall be the multiple of the remuneration base, applying the multiplier equal to 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 pursuant to art. 20 point 2 of the Act of 17 December 1998 on retirement and pensions from the Social Insurance Fund (Journal of Laws 2004 items 748, 1240, 1302 and 1311), 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 preceding year, the current 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 the 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 multiplier equal to 1.2 and 0.8.

6. The judge of the Constitutional Tribunal retires after finishing his/her term of office.

7. The judge of the Tribunal shall, when his/her term of office has ended, have the right to return to his/her previous office or to be offered a post equivalent to that previously held. In the case of a judge who exercises this right, para. 6 does not apply.

8. With respect to matters not provided for in this Act concerning the rights and duties and disciplinary liability of the judges of the Tribunal, the provisions relating to the rights and duties and disciplinary liability of judges of the Supreme Court shall apply accordingly.

Art. 8. 1. The consent to hold a judge criminally liable or to deprive him/her of liberty shall be given by the General Assembly of the Judges of the Tribunal, hereinafter the 'General Assembly', with the exception of the judge of the Tribunal who is the subject of 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 his/her position taken with respect to that matter.

3. Before the resolution concerning the issue referred to in para. 1 is adopted, the Tribunal shall hear explanations of the judge concerned unless this is not possible. The resolution shall be adopted by a majority of two-thirds of votes of judges of the Tribunal participating in the General Assembly.

4. Until the Tribunal resolves to allow the judge to be held criminally liable or deprived of liberty, only actions of the utmost urgency may be undertaken against that judge.

Art. 9. A judge of the Tribunal may be subjected to disciplinary punishment for an infringement of provisions of the law, acts inconsistent with the dignity of his/her office or any other unethical conduct which might undermine confidence in his/her person.

Art. 10. 1. In disciplinary proceedings, the Tribunal shall pronounce judgment:

- 1) at first instance level - by a bench of five judges of the Tribunal;
- 2) at second instance level - by a bench of seven judges of the Tribunal.

2. The judges sitting in an adjudicating bench and the person bringing disciplinary charges shall be determined by the General Assembly by lot. Judges of the Tribunal who adjudicated on the matter of first instance shall not take part in the lot to determine the bench of second instance.

3. There shall be no cassation in relation to disciplinary rulings.

Art. 11. The following shall constitute disciplinary punishment:

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

Art. 12. 1. The expiry of a mandate of a judge of the Tribunal shall be pronounced by the General Assembly in the following cases:

- 1) his/her resignation from office as a judge of the Tribunal;
- 2) any opinion of a medical board certifying his/her permanent inability to perform the duties of a judge of the Tribunal because of his/her illness, disability or weakness;
- 3) conviction, by way of legally valid court judgment, of any intentional crime prosecuted on public indictment or any intentional fiscal crime;
- 4) a legally valid disciplinary ruling sentencing him/her to removal from the office of a judge of the Tribunal.

2. The President of the Republic of Poland must give consent for the mandate to expire on account of the circumstance referred to in para. 1 point 4. The General Assembly shall request consent from the President of the Republic of Poland by way of resolution. The President of the Republic of Poland shall give consent by way of decision.

3. The expiry of the mandate of a judge of the Tribunal due to his/her death shall be pronounced by the President of the Tribunal.

4. The General Assembly shall adopt a resolution having performed an adequate investigation and, in particular, having read the records of criminal or disciplinary proceedings and heard the person concerned, unless this is not possible. In the event of permanent inability of the judge of the Tribunal to perform the duties because of to his/her state of health, the Tribunal may request an opinion on the judge's state of health from a competent health care establishment.

5. The President of the Tribunal shall submit the act pronouncing the expiry of a mandate to the Marshal of the Sejm.

Art. 13. 1. The following shall be the organs of the Tribunal: the General Assembly and the President of the Tribunal.

2. The General Assembly shall consist of the judges of the Tribunal.

Art. 14. 1. The President of the Tribunal shall, at least once a year, convene the General Assembly at which the activities of the Tribunal and problems resulting from its rulings shall be subject to discussion.

2. The General Assembly may be attended by Chairpersons of relevant Sejm committees, Senate committees, the President of the Supreme Chamber of Control, the Minister of Justice – the Public Prosecutor- General, the First President of the Supreme

Court, the President of the Chief Administrative Court, the Commissioner for Citizens' Rights, the Commissioner for the Rights of the Child.

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

Art. 15. 1. The powers of the General Assembly shall include:

- 1) the adoption of the regulations of the Tribunal;
- 2) the election of candidates for the President and Vice President of the Tribunal;
- 3) the adoption of the by-laws of the Office of the Tribunal;
- 4) the adoption of the draft plan of income and expenses of the Tribunal;
- 5) the approval of information referred to in art. 5 para. 1;
- 6) the performance of other acts provided for the General Assembly in the Act or the regulations.

2. The General Assembly shall adopt resolutions if at least 10 of the total number of judges of the Tribunal outlined in art. 194 para. 1 of the Constitution, including the President and Vice President, take part therein.

3. The President of the Tribunal shall notify all judges of the Tribunal about the agenda and the date of the General Assembly at least seven days prior to the date of it being held.

4. In special cases the General Assembly may consider itself to be able to adopt resolutions despite the failure to keep to the date specified in para. 3. This provision shall not apply to the convening of the General Assembly, during which candidates shall be elected for President and Vice President.

5. The President or Vice President of the Tribunal shall chair the General Assembly.

6. The resolutions of the General Assembly shall be adopted by a simple majority of votes, unless a law provides otherwise. Voting shall be open, unless a judge of the Tribunal requests a secret vote.

7. The regulations of the Tribunal shall be subject to publication in the Official Gazette of the Republic of Poland 'Monitor Polski' and shall come into force on the day of publication.

Art. 16. 1. The President and the Vice President of the Tribunal shall be appointed by the President of the Republic of Poland from among at least three of the candidates nominated for each of the offices by the General Assembly.

2. The candidates for the office of the President or Vice President shall be elected by the General Assembly from amongst the judges of the Tribunal who received the highest number of votes successively in a secret vote. A resolution containing the names of the candidates elected shall be submitted immediately to the President of the Republic of Poland by the President of the Tribunal.

3. The General Assembly shall convene to elect the candidates for the post of President or Vice President of the Tribunal between the 30th and 15th day prior to the expiry of the term of office the President or Vice President currently in office. In the event that the President or Vice President of the Tribunal vacates office, candidates shall be elected within 30 days.

4. The proceedings of the General Assembly, in the part referring to the election of candidates for the office of the President and Vice President of the Tribunal, shall be chaired by the judge of the Tribunal, eldest in age, participating in the General Assembly.

5. As of the day on which the date for the General Assembly referred to in para. 3 is officially set, but no later than the date on which the General Assembly commences, a judge of the Tribunal may nominate himself/herself or another judge of the Tribunal as a candidate for the post of President or Vice President of the Tribunal. The nomination shall be made in writing and shall be addressed to the President of the Tribunal

6. After the General Assembly session commences, the President of the Tribunal shall submit the nominations to the judge of the Tribunal referred to in para. 4 who shall be chairing the General Assembly. Ballot papers shall be prepared on the basis of the nominations. The names and surnames of the candidates nominated in the manner referred in para. 5 shall be provided on the ballot papers in alphabetical order.

7. The election of candidates shall go ahead if the session is attended by at least 10 of the total number of judges of the Tribunal, as specified in art. 194 para. 1 of the Constitution. Each judge of the Tribunal participating in the selection procedure shall cast only one vote and may vote for one candidate only.

Art. 17. 1. The President of the Tribunal shall represent the Tribunal in external matters and perform activities specified in the Act and the regulations.

2. The Vice President of the Tribunal shall replace the President during his/her absence and perform other duties resulting from the division of duties determined by the President of the Tribunal.

3. In the event of any impediments to the performance of duties by the President or Vice President, a judge of the Tribunal designated by the President of the Tribunal shall replace them; where the designation of a judge by the President of the Tribunal is impossible, the judge, eldest in age, shall replace the President or the Vice President of the Tribunal.

Art. 18. 1. The organisational and administrative conditions of the work of the Tribunal shall be secured by the President of the Tribunal and the Office of the Tribunal subordinate to him.

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

3. The remuneration of the Head of the Office of the Tribunal shall be determined in accordance with the provisions on the remuneration of persons occupying management positions in the state administration within the scope concerning undersecretaries of state.

4. The detailed scope of objectives and structure of the Office of the Tribunal shall be determined in its by-laws.

5. The relevant provisions referring to state civil servants shall apply to employees of the Office of the Tribunal.

Art. 19. 1. The draft plan of income and expenses of the Tribunal in the wording adopted by the General Assembly shall be included by the Minister of Public Finance in the draft budget of the state.

2. The President of the Tribunal shall have the powers of the Minister of Public Finance with respect to the implementation of the Tribunal's budget.

Chapter 2

Proceedings before the Tribunal

Section 1

General Provisions

Art. 20. 1. The Tribunal shall, in the course of proceedings, examine all relevant circumstances in order to comprehend the case in every respect.

2. The Tribunal shall not be bound by motions as to evidence submitted by participants in the proceedings and may, ex officio, admit evidence which it considers relevant to the consideration of the case.

Art. 21. In relation to cases not regulated in the Act concerning the proceedings before the Tribunal, the provisions of the Code of Civil Procedure of 17 November 1964 (Journal of Laws 2014 item 101 as amended²) shall apply.

² Amendments to the consolidated text of the Act were published in the Journal of Laws 2014 as items 293, 379, 435, 567, 616, 945, 1091, 1161, 1296, 1585, 1626, 1741 and 1924, Journal of Laws 2015 as items 2, 4, 218, 539, 978, 1062, 1137, 1199, 1311, 1418, 1419, 1505, 1527, 1567, 1587, 1595, 1634, 1635, 1830 and 1854 and Journal of Laws 2016 as items 195, 437 and 868.

Art. 22. 1. Courts and other organs of public authority shall be obliged to render assistance to the Tribunal and, at its request, present records of proceedings related to the proceedings before the Tribunal.

2. The Tribunal, having made use of the evidence from the records of proceedings, shall, without undue delay, return them to their appropriate organ.

Art. 23. The Tribunal may request the Supreme Court and the Chief Administrative Court for information concerning the interpretation of a specified legal provision in the court case law.

Art. 24. 1. Hearings of the Tribunal shall be public unless particular provisions provide otherwise. The Presiding judge of the adjudicating bench in a given case may dispense with its public nature for reasons of security of the state or protection of classified information labelled 'secret' or 'top secret'.

2. The judges of the Tribunal shall be authorised to have access to classified information connected with the case being considered by the Tribunal.

3. A witness or an expert may be heard in relation to circumstances deemed as classified information labelled 'secret' or 'top secret' after having been released by a competent organ from the obligation to keep it secret. A refusal to consent thereto may be justified by a vital interest of the state.

4. A witness or an expert shall not exercise the right to refuse to testify referred to in para. 3 above if the Tribunal considers such a refusal groundless.

Art. 25. 1. The costs of proceedings before the Tribunal shall be borne by the State Treasury subject to para. 2.

2. The Tribunal shall, together with the judgment admitting a complaint concerning a constitutional infringement, determine, by way of decision, for the benefit of the complainant, the reimbursement of the costs of the proceedings before the Tribunal by the organ which issued the normative act that is the subject of the complaint concerning the constitutional infringement. In justified cases, the Tribunal may order the reimbursement of the costs of the proceedings before the Tribunal even when it has not upheld the complaint concerning the constitutional infringement.

3. The Tribunal may determine the costs incurred for the complainant lodging the complaint concerning the constitutional infringement to be represented by an advocate or legal counsel depending upon the nature of the case and contribution of the legal representative to the clarification and settlement thereof.

Art. 26. 1. The Tribunal shall adjudicate:

- 1) sitting in full bench on the following matters:
 - a) disputes over powers between central constitutionally-recognised state authorities,
 - b) determining any impediments to the exercise of office by the President of the Republic of Poland and vesting the temporary performance of the duties of the President of the Republic of Poland in the Marshal of the Sejm,
 - c) the constitutionality of the objectives and/or activity of political parties,
 - d) the constitutionality of an Act before it is concluded or of an international agreement before its ratification, upon request of the President of the Republic of Poland,
 - e) the constitutionality of the Act on the Constitutional Tribunal,
 - f) cases of a particularly complicated nature, upon the initiative of the President of the Tribunal, or where a request for the case to be deemed particularly complex is filed by the adjudicating bench designated to consider that case, or in cases in which the particularly complex aspect is related to financial outlays not provided for in the Budget Act, and, in particular, where the adjudicating bench intends to

- depart from the legal opinion expressed in the Tribunal's ruling given earlier in full bench,
- g) where three judges of the Tribunal shall, within 14 days from the date of receiving the certified copies of the complaints concerning constitutional infringements, as well as certified copies of the applications and questions of law referred to in art. 38 para. 1, file a relevant application on the matter;
- 2) sitting in a bench of five judges of the Tribunal on the following matters:
 - a) the constitutionality of laws or ratified international agreements,
 - b) the conformity of laws with ratified international agreements whose ratification requires prior consent granted by law,
 - 3) sitting in a bench of three judges of the Tribunal on the following matters:
 - a) the conformity of other normative acts with the Constitution, ratified international agreements and laws,
 - b) complaints in relation to the refusal to proceed with the application to determine the conformity of other normative acts with the Constitution, ratified international agreements and laws as well as complaints concerning constitutional infringements
 - c) the challenging of a judge.

2. The hearing of a case by a full bench shall require participation of at least eleven judges of the Tribunal. The President or Vice President of the Tribunal shall preside over the hearing and should they be prevented from presiding, the judge, eldest in age, of the Tribunal shall preside.

3. The judges making up an adjudicating bench of the Tribunal, including the presiding judge and the judge rapporteur, shall be designated 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 applications received by the Tribunal.

Art. 27. 1. A judge of the Tribunal shall be subject to challenge with respect to adjudicating on cases in which:

- 1) he/she enacted or participated in the enactment of a normative act, judgment, administrative decision or other settlement;
- 2) he/she was a representative, legal representative, legal counsel or advisor to one of the participants in the proceedings;
- 3) there are other reasons for challenging the judge as specified in art. 48 of the Code of Civil Procedure of 17 November 1964.

2. A judge of the Tribunal may be excluded from participating in the proceedings at his/her request or the request of a participant in the proceedings or ex officio if circumstances which are not specified in para. 1 and which may engender doubts as to his/her impartiality may reasonably be thought to exist.

3. The President of the Tribunal shall decide on any challenge to a judge for the reasons specified in para. 1 and the Tribunal - for the reasons specified in para. 2.

4. Until the issue of a challenge is resolved, the judge of the Tribunal may only perform acts of the utmost urgency.

Art. 28. The participants in the proceedings before the Tribunal shall be:

- 1) an entity who submitted an application or complaint concerning a constitutional infringement;
- 2) an organ which issued an act included in the application or complaint concerning constitutional infringement; or the Office of the Prosecutor-General of the State Treasury, if the Council of Ministers designated the Office of the Prosecutor-General of the State Treasury to represent the Council of Ministers or any ministers in proceedings before the Constitutional Tribunal;
- 3) the court, which has presented a question of law to the Constitutional Tribunal, provided that it has given notice of its participation in the initiated proceedings as a result of that legal question and has appointed amongst the judges of that court its authorized representative;

- 4) the statutory body of a party - in cases to determine the constitutionality of the objectives and/or activities of a political party;
- 5) any central constitutionally-recognised state authority to which a dispute over powers refers;
- 6) the Public Prosecutor-General;
- 7) the Sejm, the President of the Republic of Poland and the Minister of Foreign Affairs - in cases to determine the constitutionality of international agreements ratified according to the procedure of art. 89, para. 1 and art. 90 of the Constitution,
- 8) the President of the Republic of Poland and the Minister of Foreign Affairs - in cases to determine the constitutionality of other ratified international agreements;
- 9) the Commissioner for Citizens' Rights where he/she has given notice of his/her participation in the proceedings in relation to complaints concerning constitutional infringements.
- 10) the Commissioner for the Rights of the Child where he/she has given notice of his/her participation in any initiated proceedings, upon request of the Commissioner for Citizens' Rights, or in proceedings in relation to complaints concerning constitutional infringements on the rights of the child;
- 11) the President of the Republic of Poland, if he/she lodges the request referred to in art. 38 para. 5

Art. 29. The Marshal of the Sejm, the Marshal of the Senate, the First President of the Supreme Court and the Public Prosecutor-General shall take part in person at the hearing on admitting an interim inability of the President of the Republic of Poland to exercise his/her office.

Art. 30. 1. A participant in the proceedings shall act before the Tribunal in person or through an authorised representative.

2. In the proceedings before the Tribunal, the Marshal of the Sejm, the Sejm or a group of deputies which is the applicant shall act through a deputy designated by themselves as their representative.

3. The provisions of para. 2 shall apply accordingly with respect to the Senate.

4. The applicants specified in para. 2 and 3 may, in addition to representatives, appoint legal representatives, three at most, from amongst persons who are neither deputies nor senators.

5. The Public Prosecutor-General or his/her deputy shall participate in cases considered by the Tribunal sitting in full bench. A prosecutor of the National Public Prosecutor's Office shall participate in cases considered by other compositions of the bench.

Art. 31. 1. Procedural letters shall be applications and statements of participants in the proceedings, submitted to the Tribunal in the course of proceedings other than the hearing.

2. Letters and enclosures submitted to the Tribunal shall be made in such number that will enable their delivery to all participants in the proceedings and allow two copies to be retained in the case records.

Art. 32. 1. Institution of proceedings before the Tribunal shall take place on the basis of an application, question of law or complaint concerning constitutional infringements by an entity entitled thereto.

2. An applicant may, by the time the hearing has commenced, withdraw the application, question of law or complaint.

Art. 33. 1. The application or question of law shall comply with requirements referring to procedural letters.

2. The application lodged by the entities referred to in art. 191 para. 1 points 1-5 of the Constitution shall include:

- 1) identification of the entity authorised to lodge the application;
- 2) the legal basis for the actions of the entity authorised to lodge the application;

- 3) identification of the type of letter;
- 4) identification of the normative act, or a part thereof, called into question;
- 5) identification of control standards;
- 6) reasoning;

3. The reasoning referred to in para. 2 point 6 shall include the following:

- 1) reference to the provisions called into question by the application and their interpretation;
- 2) reference to the control standards and their interpretation;
- 3) a description of the constitutional problem and the allegation of non-constitutionality;
- 4) an indication of the arguments and evidence in support of the allegation of non-constitutionality;
- 5) an indication of the arguments and evidence indicating that application concerns a valid point of law requiring settlement by the Tribunal.

4. A list of deputies and senators supporting the application together with their signatures shall be enclosed with the application lodged by the group of deputies or senators.

5. The application submitted by an organ or organisation specified in art. 191 para. 1 points 2-5 of the Constitution shall also include reference to the provision of law or by-laws, indicating that the law or another normative act called into question concerns issues within their scope of activities.

6. Questions of law shall include:

- 1) identification of the organ which enacted the normative act in question;
- 2) identification of the normative act, or a part thereof, called in question;
- 3) formulation of the allegation of non-conformity of the challenged normative act with the Constitution, ratified international agreement or laws;
- 4) reasons for the allegation containing an indication of supporting evidence.

7. The question of law shall also indicate the scope within which an answer to the question may influence the settlement of the case in relation to which the question has been asked and, additionally, it shall indicate the organ before which the proceedings are pending as well as the designation of the case.

Art. 34. 1. The President of the Tribunal shall inform other participants in the proceedings that the application or question of law has been lodged, deliver copies of the application or question of law to them and instruct them about the right to submit explanations in writing.

2. The President of the Tribunal shall forward the information referred to in para. 1 also to the President of the Republic of Poland in order to allow him/her to consider making the request referred to in art. 38 para. 5.

Art. 35. 1. The participants in the proceedings shall be obliged to provide the Tribunal with any explanations concerning the case and to notify it about the evidence necessary to consider the case thoroughly.

2. The participants in the proceedings shall have the right to review the case records and to make and/or receive copies or excerpts thereof.

Art. 36. The President of the Tribunal or the presiding judge of the adjudicating bench may permit other persons to review the records where it is justified by a vital legal interest of that person or the public interest. This shall not refer to cases which are considered in camera.

Art. 37. 1. The President of the Tribunal shall refer the application specified in art. 33, para. 5 to a judge of the Tribunal, designated by him/her, for preliminary consideration at proceedings in camera.

2. Where the application fails to satisfy the formal requirements, the judge of the Tribunal shall order the defects therein to be repaired within a period of seven days from the date of notification thereof.

3. Where the application is evidently groundless or its defects have not been repaired within the specified period of time, the judge of the Tribunal shall issue a decision refusing to proceed with further action.

4. The applicant shall, with respect to the decision concerning refusal to proceed with further action, be entitled to lodge a complaint to the Tribunal within a period of seven days from the date of delivery of the said decision.

5. The Tribunal, sitting in camera, shall decide not to proceed with consideration of the complaint filed after the expiry of the period specified in para. 4.

6. The President of the Tribunal shall, having found that the complaint has been filed in due time, refer that complaint for consideration to the Tribunal at proceedings in camera and shall determine the date for consideration thereof.

7. The Tribunal shall, having admitted the complaint, refer the case for consideration at a hearing. The decision concerning non-admittance of the complaint shall not be subject to appellate proceedings.

Art. 38. 1. The President of the Tribunal shall provide all the judges with certified copies of applications, questions of law, and complaints concerning constitutional infringements, where they meet formal requirements.

2. The President of the Tribunal shall refer applications and questions of law, with respect to which there are no formal reservations, for consideration at a hearing by a competent adjudicating bench, and shall determine the 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 following:

- 1) applications concerning the constitutionality of laws before they are concluded and of international agreements before their ratification;
- 2) applications concerning the constitutionality of the Budget Act or the Provisional Budget Act before they are concluded;
- 3) applications concerning the constitutionality of the Act on the Constitutional Tribunal;
- 4) applications to determine any impediment to the exercise of office by the President of the Republic of Poland and to vest the temporary performance of the duties of the President of the Republic of Poland in the Marshal of the Sejm;
- 5) applications to settle disputes over powers between central constitutionally-recognised state authorities.

5. The President of the Tribunal shall set the date of a hearing, bypassing the requirement in para. 3, upon request of the President of the Republic of Poland.

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

Art. 39. The presiding judge of the adjudicating bench shall make dispositions in order to prepare the hearing in a proper manner. The presiding judge may, in particular:

- 1) order delivery of proper letters filed in the course of proceedings to the participants in the proceedings;
- 2) summon the participants in the proceedings to submit their position in relation to the case in writing and within a fixed period of time;
- 3) order the participants in the proceedings to submit documents and other materials necessary for consideration of the case;
- 4) summon other organs or organisations to participate in the proceedings, participation of which shall be deemed by him/her expedient for due consideration of the case.

Art. 40. 1. The Tribunal shall, at a sitting in camera, discontinue the proceedings:

- 1) if the pronouncement of a ruling is useless or inadmissible;
- 2) in consequence of the withdrawal of the application, question of law or complaint concerning constitutional infringements;

3) if the normative act has ceased to have effect to the extent challenged prior to the delivery of a ruling by the Tribunal.

2. If the circumstances referred to in para. 1 shall come to light at the hearing, the Tribunal shall issue a decision to discontinue the proceedings.

3. The provisions of para. 1 point 3 is not applied if it is necessary to issue a ruling on a normative act which lost its validity before issuing the ruling for protecting constitutional freedom and rights.

Art. 41. The internal procedure for dealing with applications, complaints concerning constitutional infringements and questions of law shall be determined by the regulations of the Tribunal.

Section 2

Proceedings to determine the Constitutionality of Ratified International Agreements and Normative Acts and Proceedings on Questions of Law

Art. 42. 1. The participation in the hearing of the organ or the representative of the organ which promulgated the normative act, the subject of the application, shall be obligatory.

2. In the hearing to confirm the constitutionality of the ratified international agreements, the participation of representatives of the President of the Republic of Poland, the Minister of Foreign Affairs and the Public Prosecutor-General and, in the case of international agreements ratified in the procedure of art. 89, para. 1 and art. 90 of the Constitution- also the representatives of the Sejm, shall be obligatory.

Art. 43. The Tribunal shall, while adjudicating on the constitutionality of a normative act, examine both the contents of the said normative act, or part thereof, as well as the procedure by which it is issued as outlined by the Constitution.

Art. 44. Where the President of the Republic of Poland requests the Tribunal to pronounce judgment on the constitutionality of the Budget Act or the Provisional Budget Act before their conclusion, the Tribunal shall pronounce the judgment no later than within a period of two months from the date of lodging the application to the Tribunal.

Art. 45. 1. In cases to determine the constitutionality of the normative act in which the ruling of the Tribunal may give rise to consequences connected with financial outlays which have not been provided for in the acts specified in art. 44, the President of the Tribunal shall request the Council of Ministers to give an opinion within a period of two months.

2. Failure to issue the opinion by the Council of Minister after the expiry of the period specified in para. 1 shall not prevent consideration of the case.

Art. 46. The provisions of art. 42-45 shall apply accordingly to the consideration of a question of law.

Section 3

Adjudicating on Cases related to Complaints Concerning Constitutional Infringements

Art. 47. 1. A complaint concerning constitutional infringements, further referred to as the 'complaint' can be submitted after exhausting all legal means, if such means is allowed, within 3 months from delivering the legally valid judgment, the final decision or other final settlement to the complainant

2. The Tribunal shall consider a complaint on the principles and in accordance with the procedure provided for the consideration of an application to determine the constitutionality of laws and the conformity of other normative acts to the Constitutions and laws, excluding the requirements to consider the applications in the order of being received.

Art. 48. 1. The complaint shall, apart from the requirements referring to the procedural letters, include the following:

- 1) a precise identification of the law or another normative act on the basis of which a court or another organ of public administration has given a final decision in respect of freedoms or rights or obligations outlined in the Constitution and whose constitutionality is being challenged by the complainant;
- 2) an indication as to which constitutional freedoms and rights have, according to complainant, been infringed and in what manner.
- 3) reasoning for the complaint including a precise description of the facts of the case.

2. The judgment, order or other settlement, given on the basis of the challenged normative act, together with an indication of its delivery date shall be enclosed with the complaint.

Art. 49. 1. The complaint or claim on the decision to refuse further consideration of the complaint shall be drawn up by an advocate or legal counsel unless the complainant is a judge, prosecutor, notary, professor or doctor of laws.

2. Where the complainant cannot bear the costs of legal assistance, he/she may request the district court of his/her place of residence to appoint him/her an advocate or legal counsel ex officio on the basis of the Code of Civil Procedure of 17 November 1964. Until the court adjudicates on the application, the time-limit specified in art. 47, para. 1 shall not apply.

Art. 50. The complaint shall be subject to preliminary consideration; art. 37 shall apply accordingly.

Art. 51. 1. The Tribunal may issue a preliminary decision to suspend or stop the enforcement of the ruling in the case to which the complaint refers if the enforcement of the said judgment, decision or another settlement might result in irreversible consequences linked with great detriment to the complainant or where there is a vital public interest or another vital interest of the complainant in relation thereof.

2. The preliminary decision shall be forthwith delivered to the complainant and to the appropriate court organ or enforcement organ.

3. The Tribunal shall reverse the preliminary decision if the reasons for which it was given are no longer in effect.

Art. 52. 1. The Tribunal shall inform the Commissioner for Citizens' Rights and the Commissioner for the Rights of the Child about the commencement of proceedings. The provisions of art. 34 shall apply accordingly.

2. The Commissioner for Citizens' Rights and the Commissioner for the Rights of the Child may, within a period of 30 days from the receipt of information, give notice of his/her participation in the proceedings.

3. The President of the Tribunal shall also forward the information referred to in para. 1 to the President of the Republic of Poland in order to allow him/her to consider issuing the request referred to in art. 38. para. 5.

Art. 53. 1. The participants in the proceedings before the Tribunal shall be: the complainant, the organ which promulgated the challenged normative act or the Office of the Prosecutor-General of the State Treasury, if the Council of Ministers designated an Office of the Prosecutor-General of the State Treasury to represent the Council of Ministers or the ministers in proceedings before the Tribunal, and the Prosecutor-General; the Commissioner of the Citizens' Rights shall also be a participant if he/she has given notice of his/her

participation therein, as shall the Commissioner for the Rights of the Child, if he/she has given notice of his/her participation in proceedings initiated upon request of the Commissioner of Citizens' Rights or in proceedings on complaints concerning constitutional infringements on the rights of the child.

2. The hearing shall be held irrespective of the appearance or failure to appear of the participants in the proceedings.

Section 4

Settling Disputes over Powers

Art. 54. 1. The Tribunal shall adjudicate on disputes over powers where two or more central constitutionally-recognised state authorities have considered themselves competent to decide on the same case or have made a ruling on it (positive powers dispute) or where the said authorities have not considered themselves competent to decide on the case (negative powers dispute).

2. The application shall identify the challenged action or omission as well as the provision of the Constitution or provision of law which has been infringed.

Art. 55. 1. Institution of the proceedings before the Tribunal shall result in the suspension of the proceedings before the organs which are in dispute over powers.

2. The Tribunal, having established the position of the participants in the proceedings, may decide to issue a decision on the disputed issues provisionally, and in particular, to suspend enforcement actions, if this is necessary to prevent an occurrence of serious damage or prescribed by a particularly vital social interest.

Section 5

Examining the Constitutionality of the Objectives or Activities of Political Parties

Art. 56. 1. The Tribunal shall determine the persons appointed to represent a political party on the basis of the Act and statutes of the party.

2. Where it is impossible to determine who is the person authorised to represent the party or it is impossible to contact such a person or where there has been a change of the authorised person after the application has been filed with the Tribunal, the Tribunal shall consider the authorised person to be the person who was indeed leading the party during the time in which the party undertook the activity that has been challenged in the application as non-constitutional.

Art. 57. The Tribunal shall consider applications concerning the non-constitutionality of the objectives of political parties specified in their statutes or programme on the basis and in the procedure provided for the consideration of applications concerning the constitutionality of normative acts.

Art. 58. 1. Applications concerning the constitutionality of the activities of political parties shall be considered by the Tribunal by applying the provisions of the Code of Criminal Procedure of 6 June 1997 (Journal of Laws 1997 Nr 89 item 555, as amended³) accordingly.

³ Amendments to the abovementioned Act were published in the Journal of Laws 1999 No. 83 as item 931, Journal of Laws 2000 No. 50 as item 580, No. 62 as item 717, No. 73 as item 852 and No. 93 as item 1027, Journal of Laws 2001 No. 98 as item 1071 and No. 106 as item 1149, Journal of Laws 2002 as No. 74 as item 676, Journal of Laws 2003 No. 17 as item 155, No. 111 as item 1061 and No. 130 as item 1188, Journal of Laws 2004 No. 51 as item 514, No. 69 as item 626, No. 93 as item 889, No. 240 as item 2405 and No 264 as item 2641, Journal of Laws 2005 No. 10 as item 70, No. 48 as item 461, No. 77 as item 680, No. 96 as item 821, No. 141 as item 1181, No. 143 as item 1203, No. 163 as item 1363, No. 169 as item 1416 and No. 178 as item 1479, Journal of Laws 2006

2. The burden of proving non-constitutionality shall rest with the applicant, who therefore shall present or give notice of evidence indicating such non-constitutionality.

Art. 59. The Tribunal may, in order to collect and record evidence, charge the Public Prosecutor-General with conducting an investigation within a specified scope concerning the constitutionality of the activities of the political party. The provisions of the Code of Criminal Procedure of 6 June 1997 shall apply accordingly to the said investigation. The scope of the proceedings determined in the Tribunal's decision shall be binding.

Chapter 3

Principles and Procedure of Adjudication

Section 1

Hearings and Sittings

Art. 60. 1. The Tribunal shall, at a hearing, consider applications on the matters specified in art. 3.

2. The Tribunal may, at a sitting in camera, consider a complaint concerning constitutional infringements if, from the positions submitted by the participants in the proceedings in writing, it results without dispute that the normative act, on the basis of which a court or organ of public administration has made a final ruling in respect of constitutional freedoms or rights or obligations of the complainant, is non-constitutional. The ruling given in this procedure shall be subject to publication.

Art. 61. 1. The hearing shall not be held before the expiry of 30 days from the date of delivery of the notice about the date thereof.

2. The time-limit referred to in para. 1 does not apply to control of the Budget Act and the Provisional Budget Act before they are concluded nor does it apply in the consideration of the application to determine any impediment to the exercise of office by the President of the Republic of Poland as referred to in art. 3 para. 3 which should be considered by the Tribunal without delay.

3. With regard to questions of law, complaints concerning constitutional infringements and disputes over powers between central constitutionally-recognised state authorities, the President of the Tribunal may issue an order to shorten the time-limit referred to in para. 1 by half, unless the complainant, the court posing the question of law or the applicant objects within seven days of the order being issued by the Tribunal.

No. 15 as item 118, No. 66 as item 467, No. 95 as item 659, No. 104 as item 708 and 711, No. 141 as items 1009 and 1013, No. 167 as item 1192 and No. 226 as items 1647 and 1648, Journal of Laws 2007 No. 20 as item 116, No. 64 as item 432, No. 80 as item 539, No. 89 as item 589, No. 99 as item 664, No. 112 as item 766, No. 123 as item 849 and No. 128 as item 903, Journal of Laws 2008 No. 27 as item 162, No. 100 as item 648, No. 107 as item 686, No. 123 as item 802, No. 182 as item 1133, No. 208 as item 1308, No. 214 as item 1344, No. 225 as item 1485, No. 234 as item 1571 and No. 237 as item 1651, Journal of Laws 2009 No. 8 as item 39, No. 20 as item 104, No. 28 as item 171, No. 68 as item 585, No. 85 as item 716, No. 127 as item 1051, No. 144 as item 1178, No. 168 as item 1323, No. 178 as item 1375, No. 190 as item 1474 and No. 206 as item 1589, Journal of Laws 2010 No. 7 as item, No. 98 as item 626, No. 106 as item 669, No. 122 as item 826, No. 125 as item 842, No. 182 as item 1228 and No. 197 as item 1307, Journal of Laws 2011 No. 48 as items 245 and 246, No. 53 as items 273, No. 112 as item 654, No. 117 as item 678, No. 142 as item 829, No. 191 as item 1135, No. 217 as item 1280, No. 240 as items 1430, 1431 and 1438 and No. 279 as item 1645, Journal of Laws 2012 as items 886, 1091, 1101, 1327, 1426, 1447 and 1529, Journal of Laws 2013 as items 480, 765, 849, 1247, 1262, 1282 and 1650, Journal of Laws 2014 as item 85, 384, 694, 1375 and 1556, Journal of Laws 2015 as item 21, 290, 396, 1185, 1186, 1334, 1788, 1855 and 2281 and Journal of Laws 2016 as items 178 and 437.

4. Presence of the applicant at the hearing shall be obligatory. If the applicant or his/her representative is in default, the Tribunal shall discontinue the proceedings or adjourn the hearing.

5. If the participants in the proceedings, whose presence at the hearing is obligatory, or their representatives are in default, the Tribunal may adjourn the hearing and at the same time fix a new date for the hearing. The condition specified in para. 1 shall not apply.

6. Absence from the hearing of the Public Prosecutor-General, who has been properly notified thereof, or his/her representative shall not prevent consideration of the case unless the obligation to participate in the hearing results from the provisions of the Act.

7. Default of other participants in the proceedings shall not prevent consideration of the case; in such a case the judge rapporteur shall, at the hearing, present the opinion of the absent participant in the proceedings.

8. The Tribunal shall adjourn the hearing in the case of lack of proof of delivery or irregularities in the delivery of the notice of hearing to the participants in the proceedings; it may also adjourn the hearing for other important reasons.

Art. 62. The hearing shall commence by calling the case before the court, then the applicant followed by the other participants in the proceedings shall present their opinions and evidence in support thereof. To this end, the presiding judge of the adjudicating bench shall enable each of the participants in the proceedings to address the court.

Art. 63. 1. The presiding judge of the adjudicating bench shall direct the hearing and give the dispositions necessary to keep order thereat and shall, in the case of need, apply measures prescribed in the law on the organisation of ordinary courts of 27 July 2011 (Journal of Laws item 133, as amended⁴), for maintaining the authority of the court.

2. The participants in the proceedings shall have the right to appeal to the adjudicating bench against the orders of the presiding judge given in the course of the hearing.

Art. 64. 1. The recording clerk shall, directed by the presiding judge of the adjudicating bench, draw up a record of the course of the hearing.

2. The record shall include:

- 1) the date and place of the hearing, names and surnames of the members of the adjudicating bench, recording clerk and the participants in the proceedings, their representatives and legal representatives as well as a designation of the case with a note whether the hearing is public or closed to the public;
- 2) the course of the hearing, and in particular applications and statements of the participants in the proceedings, results of the hearing of evidence, list of orders and rulings made at the hearing and information whether or not they have been announced.

3. The participants in the proceedings may submit requests to correct or supplement the record - until the ruling is announced, and with respect to the record of the hearing at which the ruling has been announced - within 14 days from the date of the hearing.

4. The record shall be signed by the presiding judge of the adjudicating bench and the recording clerk. A note referring to corrections of the record shall be signed by the presiding judge of the adjudicating bench.

5. The applications referred to in para. 3 shall, after hearing the recording clerk, be settled by the presiding judge by way of order. The ruling shall not be subject to appeal.

6. The hearing may, independently of drawing up the record, be recorded in shorthand record or by means of sound recording equipment. The shorthand record translated into regular writing or the recording shall be attached to the said record.

⁴ Amendments to the consolidated text of the abovementioned Act were published in the Journal of Laws 2015 as items 509, 694, 1066, 1224, 1309, 1311, 1418, 1595 and 1781 and Journal of Laws 2016 as items 147, 437 and 633.

Art. 65. The presiding judge of the adjudicating bench shall close the hearing where the Tribunal considers the case to be sufficiently considered.

Art. 66. For cases, which are not required by the Act to be considered at the hearing, the Tribunal shall make a decision at a sitting.

Section 2

Rulings of the Tribunal

Art. 67. The Tribunal shall, while adjudicating, be bound by the limits of the application, question of law or complaint.

Art. 68.1. The Tribunal shall announce the ruling following deliberation by the judges of the adjudicating bench held in camera.

2. Deliberations shall include discussion and voting on the ruling and the fundamental reasoning for the settlement made as well as the drawing up of the ruling.

3. Deliberations shall be headed by the presiding judge on the bench.

4. In a particularly complicated case or for other vital reasons, the announcement of a ruling may be postponed for a period not exceeding 14 days.

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

6. In the case that the objection referred to in para. 5 is raised, the deliberation shall be adjourned for three months, and at the next deliberation held after that period has passed, the judges who raised the objection shall present a joint proposal for a new settlement.

7. If, during the next deliberation referred to in para. 6, at least four judges raise objections again, the deliberation shall be adjourned for another three months. After that period has passed, a new deliberation and vote shall be held.

Art. 69. 1. The ruling shall be made by a simple majority of votes.

2. The presiding judge of the adjudicating bench shall ask the judges for votes according to their age, beginning with the youngest, and shall vote himself/herself last.

3. A member of the adjudicating bench, who does not agree with the voting majority, may, before the announcement of the ruling, express a dissenting opinion, explained in writing; the dissenting opinion shall be indicated in the ruling. The dissenting opinion may also refer to the reasoning itself.

4. The ruling shall be signed by the whole adjudicating bench, including the outvoted judge.

Art. 70. The ruling of the Tribunal may refer to the entire normative act or to individual provisions thereof.

Art. 71. 1. The Tribunal shall pass judgments on matters concerning:

- 1) the constitutionality of laws and international agreements;
- 2) the conformity of laws with ratified international agreements whose ratification required prior consent granted by law;
- 3) the conformity of legal provisions enacted by central state authorities with the Constitution, ratified international agreements and laws;
- 4) complaints concerning constitutional infringements;
- 5) the constitutionality of the objectives and/or activity of political parties.

2. The Tribunal shall issue decisions on matters concerning:

- 1) the settlement of disputes between constitutionally-recognised central state authorities over powers;

- 2) adjudication on the finding of impediments to the exercise of office by the President of the Republic of Poland;
- 3) vesting in the Marshal of the Sejm of the temporary performance of the duties of the President of the Republic of Poland;
- 4) other cases, in which passing of a judgment is not required.

Art. 72. 1. A ruling of the Tribunal shall include:

- 1) a list indicating the identity of the adjudicating bench and the recording clerk,
- 2) the date and place of passing thereof,
- 3) a list indicating the identity of the applicant and other participants in the proceedings,
- 4) a precise description of the normative act which the ruling concerns,
- 5) a presentation of the allegations made by the applicant or the complainant lodging the complaint concerning constitutional infringements,
- 6) the Tribunal's ruling, including the result of the vote of the judges.

2. Where the Tribunal decides that the normative act ceases to have effect after the day of the publication of the ruling confirming its non-conformity with the Constitution, ratified international agreement or laws, it shall, in the ruling, determine the date the act shall cease to have effect.

3. The Tribunal shall, not later than within one month from the publication of its ruling, draw up its reasoning in a written form; the reasoning shall be signed by the judges of the Tribunal taking part in the voting thereon.

4. If any of the judges specified in para. 3 cannot sign the reasoning, the presiding judge of the adjudicating bench shall indicate the reasons for the lack of signature; if the reasoning cannot be signed by the presiding judge of the adjudicating bench, the reason thereof shall be indicated in the ruling by the eldest, in age, of the voting judges of the Tribunal.

Art. 73. The provisions of art. 72 para. 1, 3 and 4 shall apply accordingly to a ruling on the non-constitutionality of ratified international agreements, their reasoning and any dissenting opinion.

Art. 74. 1. An adjudicating bench of the Tribunal may, at any time, sitting in camera, issue a decision to correct inaccuracies, clerical or calculation errors or any other evident mistakes in a ruling or its reasoning.

2. Corrections shall be indicated in a note, signed by the presiding judge of the adjudicating bench on the original ruling, and, at the request of the participants in the proceedings, and also on copies sent to them.

Art. 75. 1. Upon request of a participant in the proceedings, the adjudicating bench of the Tribunal which issued the ruling at a sitting in camera, shall, by way of decision, settle all doubts as to its contents.

2. If the request for an explanation of doubts cannot be considered by the adjudicating bench specified in para. 1, the application shall be considered by a bench sitting with the same number.

Art. 76. 1. Terminating decisions in proceedings shall be made at a sitting in camera. They shall require reasoning to be given.

2. Non-final decisions in proceedings may be reversed or changed owing to a change in circumstances.

Art. 77. Instructions shall be given on matters connected with the preparation for a hearing or sitting and in matters of order.

Art. 78. 1. Rulings drawn up in a written form shall be announced to the participants in the proceedings. While the judgment is pronounced, all persons present in court shall, except the adjudicating bench, stand.

2. The presiding judge of the adjudicating bench or the judge rapporteur shall, in an oral statement of reasoning for the ruling, state the essential reasons thereof and disclose any dissenting opinions. The judge who expressed a dissenting opinion shall present his/her reasons therefor.

Art. 79. Rulings of the Tribunal, announced in the manner specified in art. 78, shall, without delay, after drawing up the reasoning, be delivered to the participants in the proceedings.

Art. 80. 1. Judgments of the Tribunal shall, subject to para. 2, be published in the Dziennik Ustaw Rzeczypospolitej Polskiej (Journal of Laws of the Republic of Poland).

2. Judgments of the Tribunal that find there to be non-conformity of a normative act with the Constitution, ratified international agreements or law shall be subject to publication without delay in the publication in which the said act was published, and if the ruling concerns an act which was not published in a publication - in the Official Gazette of the Republic of Poland 'Monitor Polski'.

3. The decision referred to in art. 71. para. 2 points 1-3 shall be published in the Official Gazette of the Republic of Poland – 'Monitor Polski'.

4. The President of the Tribunal shall refer the request to publish the judgments and decisions referred to in art. 71 para. 2 points 1-3 to the Prime Minister. Publication shall take place on the basis of and in the manner outlined in the Constitution and Act of 20 July 2000 on the publication of normative acts and certain other legal acts (Journal of Laws 2016 item 296)

Art. 81. The Tribunal shall publish a collection of its rulings.

2. The name 'Case-Law of the Constitutional Tribunal' shall enjoy legal protection.

Chapter 4

Amending, Transitory, Adapting and Final Provisions

Art. 82. Art. 16 para. 2 point 3 of the Act of 15 July 1987 on the Commissioner for Citizens' Rights (Journal of Laws 2014 item 1648, Journal of Laws 2015 item 1064 and Journal of Laws 2016 item 677) shall read as follows:

'3) give notice of his/her participation in proceedings before the Constitutional Tribunal on matters related to complaints concerning constitutional infringements and to participate in those proceedings.'

Art. 83. Art. 43 of the Act of 27 June 1997 on political parties (Journal of Laws 2011 item 924 and Journal of Laws 2015 item 1064 and 1485) shall read as follows:

'Art. 43. The procedure for matters related to art. 42 is outlined in the Act of..... on the Constitutional Tribunal (Journal of Laws item...).'

Art. 84. 1. In the cases pending prior to the entry into force of the present Act, the provisions of the present Act shall apply.

2. The Tribunal shall be obliged to resolve the cases referred to in para. 1 within one year from the date of entry into force of the Act. The one-year time-limit shall not apply to the cases specified in art. 85.

Art. 85. 1. Where applications filed by the entities referred to in art. 191 para. 1 points 1-5 of the Constitution are still pending before the date of entry into force of the Act, the Tribunal shall, within 14 days from the date of entry into force of the Act, postpone proceedings for a period of 6 months, and shall request that the applications be supplemented in compliance with the requirements set out in art. 33 para. 2-5.

2. Where the application referred to in para. 1 has been supplemented in compliance with the requirements set out in art. 33 para. 2-5, after the time-limit specified in para. 1 has

passed, the Tribunal shall decide on whether to resume the postponed proceedings. Otherwise, proceedings shall be discontinued.

Art. 86. 1. If the date of a hearing was set prior to the date of entry into force of the Act, the hearing shall be postponed, and the adjudicating bench shall adhere to the provisions of the present Act.

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

Art. 87. If, prior to the date of entry into force of the Act, the date of the public announcement of a ruling was set, the announcement of the ruling shall be postponed, and the adjudicating bench and the requirements concerning the ruling shall be adjusted to adhere to the provisions of the Act.

Art. 88. 1. Cases referred for preliminary consideration on the basis of art. 77 para. 1 of Act of 25 June 2015 on the Constitutional Tribunal (Journal of Laws 2016 item 293) shall be considered on the basis of the provisions of the present Act on preliminary consideration.

2. In the case of the applications lodged by the entities referred to in art. 191 para. 1 points 3-5 of the Constitution and the complaints concerning constitutional infringements in relation to which applicants or complainants have been summoned to remove any formal defects before the date of entry into force of the present act, the provisions of the present Act on preliminary consideration shall apply in the further proceedings.

Art. 89. In cases where the Commissioner for Citizens' Rights has given notice of his/her participation in proceedings on the basis of art. 82 para. 3 of Act of 25 June 2015 on the Constitutional Tribunal, the proceedings shall take place with the participation of the Commissioner.

Art. 90. In cases where the Council of Ministers has presented its opinion as a participant in the proceedings, in the proceedings referred to in art. 135 para. 1 of the Act of 25 June 2015 on the Constitutional Tribunal, or has given notice of its participation in proceedings on the basis of art. 135 para. 2 of that Act, the proceedings shall take place with the participation of the Council of Ministers.

Art. 91. The Tribunal's settlement issued in breach of the provisions of the Act of 25 June 2015 on the Constitutional Tribunal, in the period from 10 March 2016 until 30 June 2016, shall be published in a relevant official publication within 30 days from the date of entry into force of the Act.

Art. 92. The judges of the Tribunal who have taken the oath of office before the President of the Republic of Poland and who have not, by the date of entry into force of the Act, assumed the judicial duties, shall be included in the adjudicating benches of the Tribunal, and shall be assigned a caseload by the President of the Tribunal as of the date of entry into force of the Act.

Art. 93. The Act of 25 June 2015 on the Constitutional Tribunal (Journal of Laws 2016 item 293) shall cease to have effect.

Art. 94. The Act shall enter into force after the expiry 14 days from the date of its publication.