

CONSTITUTIONAL TRIBUNAL ACT OF APRIL 29, 1985

CHAPTER 1 GENERAL PROVISIONS

Article 1

The Constitutional Tribunal adjudicates upon conformity:

1. with the Constitution—of legislative acts: laws and decrees approved by the Sejm,
2. with the Constitution or with legislative acts—of normative acts/acts establishing legal norms/other than those specified under sec 1, enacted by the Council of State, high and central organs of state administration and other high and central state organs.

Article 2

Adjudicating upon conformity of a legislative act with the Constitution or of another normative act with the Constitution or a legislative act, the Constitutional Tribunal examines both the substance of such an act and also the competence and observance of the legislative procedure required for enactment of an act; the verdict may concern an act by and large or any of its specific provisions.

Article 3

Proceedings in the Constitutional Tribunal in cases specified under Art. 1 may be initiated:

1. with respect to laws and other acts which under the regulations are to be published in a public document—at the moment of their publications; decrees—at the moment of their approval by the Sejm,
2. with respect to normative acts concerning which legal regulations do not stipulate obligatory publication in a public document as a condition for their entry into force—at the moment of their adoption, even if the entry into force of these acts is stipulated at a later date.

Article 4

1. The Constitutional Tribunal adjudicates upon conformity of a legislative act with the Constitution and of other normative acts with the Constitution or a legislative act in force on the day the verdict was ruled or, with respect to which by force of Art. 3 it is admissible to initiate proceedings before their entry into force.

2. The loss of obligatory force of a normative act prior to verdict or ruling by the Constitutional Tribunal entails discontinuation of proceedings with respect to such an act.

Article 5

The Constitutional Tribunal presents to the Sejm of the Polish People's Republic and to other competent legislating organs its comments on ascertained infringements and lacunae in the law, the elimination of which is indispensable for assuring coherence of the system of law of the Polish People's Republic.

CHAPTER 2
ADJUDICATING UPON CONFORMITY OF LEGISLATIVE
ACTS WITH THE CONSTITUTION

Article 6

1. A verdict adjudicating upon non-conformity of a legislative act with the Constitution is submitted by the President of the Constitutional tribunal to the Sejm.
2. The verdict specified under point 1 is considered by the Sejm at a plenary sitting during the current session or at the earliest sitting the following session.
3. Should the Sejm deem the verdict as well-founded, it makes the required changes in the act covered by that verdict or waives it in part or in its entirety. Should the act covered by the verdict be deemed as conforming with the Constitution the Sejm rejects the verdict of the Constitutional Tribunal and the issue covered by it cannot be once more the subject of proceedings in the Constitutional Tribunal.
4. Sejm resolutions to reject a verdict of the tribunal must be passed by at least a two-thirds majority in the presence of at least half of the total number of deputies.

CHAPTER 3
ADJUDICATING UPON CONFORMITY OF OTHER
NORMATIVE ACTS WITH THE CONSTITUTION
OR LEGISLATIVE ACTS

Article 7

A verdict adjudicating upon non-conformity with the Constitution or a legislative act or an act specified under Art. 1 sec. 2, is submitted by the President of the Constitutional Tribunal to the organ which issued the act covered by the verdict.

Article 8

1. In cases specified under Art. 7 the organ which issued the act covered by the verdict immediately makes the required changes in the act or waives it in part or in, its entirety, not later than within three months after receipt of the Constitutional Tribunal verdict in the case.

2. Should a request be submitted for reconsideration of the case under terms specified in Art. 27 sec 2 and 3, the provisions of sec 1 are applied to the act covered by the verdict of the Constitutional Tribunal adjudicating upon non-conformity between the act and the constitution or a legislative act issued as a result of consideration of that motion.

Article 9

1. Should the non-conformity between an act and the Constitution or a legislative act not be eliminated within the time limit specified under Art. 8, the said act loses force with the elapse of that time limit within the scope specified in the verdict of the Constitutional Tribunal.

2. In particularly justified cases the Tribunal may suspend the application of an act in its entirety or in part with the day of passing of the verdict; this suspension remains in force until the verdict of the Constitutional Tribunal is executed as stipulated under Art. 8 or sec 1 of this article.

3. The loss of obligatory force of an act or its suspension is notified by the President of the Constitutional Tribunal in the public document in which the act was announced, and when the verdict concerns an act unpublished in a public document—in the Official Gazette of the Polish People's Republic—the *Monitor Polski*.

CHAPTER 4 LEGAL QUESTIONS

Article 10

1. In connection with administrative, judicial arbitration proceedings underway, in cases of minor offences and cases of offences and infringements directed against the treasury and falling within the jurisdiction of financial adjudicating bodies, questions may be addressed to the Constitutional Tribunal as to the conformity of a legislative act with the Constitution or another normative act with the Constitution or a legislative act, when judgement in such a proceeding is contingent upon an answer to such a question.

2. Proceeding defined under point 1, in connection with which a legal question was raised, is suspended on the day such a question was raised and remains so until the conformity of the legislative act which the question concerns with the Constitution or of another normative act which the question may concern with the Constitution or legislative acts, is adjudicated.

Article 11

Legal questions described under Art. 10 sec 1 are considered by the Constitutional Tribunal on principles and according to procedures specified for reviewing requests for ascertaining conformity of legislative acts with the Constitution or of other normative acts with the Constitution or legislative acts, with changes implied from following provisions of this act.

CHAPTER 5
ORGANIZATION OF THE CONSTITUTIONAL TRIBUNAL

Article 12

The Constitutional Tribunal has its seat in the capital city of Warsaw.

Article 13

1. Members of the Constitutional Tribunal are: the President, the Vice President and ten judges.

2. Members of the Constitutional Tribunal are elected and recalled by the Sejm.

3. An elected member of the Constitutional Tribunal may only be a person with outstanding legal knowledge and qualifications required for the post of judge on the Supreme Court or High Administrative Court.

4. Members of the Constitutional Tribunal are elected for a period of eight years, but every four years half of the membership is changed; election to a second term on the Tribunal is not permitted, unless the previous election took place in mid-term for a period shorter than four years.

5. Serving in the post of member of the Tribunal cannot be reconciled with a mandate of Sejm deputy or employment in state bodies, or finally with another occupation which would hamper the performance of duties of a Tribunal member or would compromise its dignity or undermine the confidence in impartiality of its verdicts.

6. Taking the post of a member of the Constitutional Tribunal requires an oath, administered by the Speaker of the Sejm, as follows: "I solemnly swear, in performing the duties of member of the Constitutional Tribunal vested in me, to: uphold faithfulness to the Constitution of the Polish People's Republic and stemming from its provisions—principles of the political and socio-economic system of the socialist State and the principles of rule of law and social justice, to safeguard State interests and the just interests of citizens, guard legal order, to perform the duties vested in me with utmost diligence, to uphold the dignity of the office vested in me, to observe state and official secrecy."

Article 14

1. The Sejm recalls a member of the Constitutional Tribunal when the said member:

1. resigns the post
2. due to illness, disability or loss of vigour becomes lastingly incapacitated to perform duties,
3. is convicted by a court verdict,
4. breaches the oath of office
5. by a binding disciplinary verdict is convicted to dismissal from post held.

2. In case of death of a member the Sejm ascertains the termination of mandate.

3. Filling of Tribunal vacancies for posts vacated for reasons specified under sections 1 and 2 is done at the same of next session of the Sejm when the recall or ascertainment of termination of mandate of Tribunal member took place. A member of the Tribunal elected under this procedure serves in the post until the end of the term for which his predecessor was elected.

Article 15

1. A member of the Constitutional Tribunal cannot be charged with criminal or administrative responsibility nor held without the agreement of the Tribunal. This does not apply to a member on the spot in the course of committing a felony. A request to this end is considered by the Tribunal in its full bench with the exception of the justice whom the request concerns.

2. Until the time when the Tribunal resolves to allow a member of the Tribunal to face responsibility, it is permitted to take only actions requiring urgency against such a member.

3. A member of the Tribunal bears only administrative responsibility for minor offences.

Article 16

1. Concerning the rights and duties and disciplinary responsibility of members of the Constitutional Tribunal, not stipulated in this law, with the reservation of sections 2-5, there apply the respective stipulations of the law on the Supreme Court concerning the rights and duties and disciplinary responsibility of judges of the Supreme Court, provided they do not contradict to provisions of this law.

2. Questions of claims resulting from the official status of the Vice President and judges of the Constitutional Tribunal are adjudged by the President of that Tribunal, and concerning the president of the Tribunal—by the Speaker of Sejm. Decisions of the President of the Tribunal may be appealed to the Speaker of the Sejm.

3. In disciplinary proceedings the Constitutional Tribunal adjudicates:

- (1) in the first instance—as a bench of three judges,
- (2) in the second instance—as a bench of five judges.

4. Judges and the disciplinary spokesman are appointed to the benches by the President of the Constitutional Tribunal from among members of that Tribunal.

5. Provisions of the law specified under section 1 concerning extraordinary revision are not applicable to verdicts in disciplinary cases.

Article 17

The organizational and administrative working conditions are provided for the Constitutional Tribunal by the President of the Tribunal and his subordinate Bureau of that Tribunal.

Article 18

1. With respect to employees of the Bureau of the Constitutional Tribunal, taking into account stipulations under sections 2 and 3, apply provisions concerning state civil servants respectively.

2. With respect to employees of the Bureau of the Constitutional Tribunal—the regulations specified under Art. 2 sec 1, Art. 4 sec 3, Art. 7 sec 6, Art. 20 sec 4, Art. 21, sec 3, Art. 22 sec 2, Art. 26 sec 2, Art. 36 sec 7 and Art. 41 sec 3 of the law of September 16, 1982 on state civil servants/Dziennik Ustaw No. 31/1982 item 214 and No. 35/1984 item 187/are enacted by the Speaker of the Sejm.

3. The rights accruing from Art. 30 sec 1 and Art. 31 sec 2 of the law cited in sec 2, with respect to employees of the Bureau of the Constitutional Tribunal are vested in the Speaker of the Sejm.

CHAPTER 6
PROCEEDINGS IN THE CONSTITUTIONAL TRIBUNAL

Article 19

1. Motions for ruling on the conformity of a legislative act with the Constitution or another normative act with the Constitution or a legislative act, with reservation of sec 2, may be made by: the Sejm Praesidium, Sejm committees or fifty deputies; the Council of State or President of the Council of Control, Council of Ministers or the Chairman of the Council of Ministers, First President of the Supreme Court, President of the High Administrative Court, Chairman of the State Economic Arbitration Board, Prosecutor General of the Polish People's Republic and the Executive Committee of the National Council of the Patriotic Movement of National Rebirth; those bodies may submit motions to the Tribunal on their own initiative or after analysis of complains and motions of citizens.

2. The motions specified under sec 1 concerning normative acts on National Defence and Armed Forces of the Polish People's Republic and to State security may be submitted by: the Praesidium of Sejm the Council of State, the Council of Ministers and the National Defence Committee.

3. Proceedings in cases specified under sec 1 may be initiated by the Constitutional Tribunal on its own.

Article 20

1. The motions specified under Art. 19 sec 1 may also be submitted by the Voivodship People's Councils or their Praesidia, the Central Commission of Cooperation of the Socialist Youth Unions as well as the competent top statutory organs of national trade union organizations, inter-union organizations and associations of trade unions, cooperative organizations, socio-occupational organizations of private farmers and other trade organizations—in cases where the questioned legislative act or another normative act relates to matters falling within their terms of reference defined in legal regulations.

2. Motions of the bodies and organizations specified under point 1 are subjected to a preliminary consideration by the Constitutional Tribunal at a hearing closed to the public, by a single judge so appointed by the President of the Tribunal.

3. The Tribunal may, in a procedure defined under sec 2, decide to quash the proceedings when the motions fails to meet the requirements set by provisions of this law or when it is obviously unfounded or misaddressed; such a decision may be appealed to the Tribunal which shall consider such an appeal at a hearing closed to the public conducted by three judges.

Article 21

Motions to initiate proceedings by the Constitutional Tribunal made after five year following publication of an act or approval of a decree/Art. 3 point 1/or passage of an act/Art. 3 point 2/ are directed by the Tribunal, under the procedure specified in Art. 5, to the body which issued the act covered by the motion, and when the motions concern a decree—to the Sejm.

Article 22

1. Legal questions specified under Art. 10 sec 1, may be addressed to the Constitutional Tribunal by: the First President of the Supreme Court, President of the High Administrative Court, Chairman of State Economic Arbitration as well as by high and central organs of state administration.

2. The organs specified under sec 1 have an obligation to inform the Constitutional Tribunal about all the instances signalled by adjudicating organs concerning non-conformity of legislative acts with the constitution and other normative acts with the Constitution or legislative acts.

3. Should the Constitutional Tribunal, through consideration of a legal question rule non-conformity of a legislative act with the Constitution or a normative act with the Constitution or legislative acts, the President of the Tribunal, as well as of delivering the verdict to the body which issued the act covered by the verdict sends a copy of the verdict to the body which itself raised a legal question on this matter.

4. Should the Constitutional Tribunal rule upon conformity of a legislative act with the Constitution or a normative act with the Constitution or legislative acts—which the legal question pertained to—the President of the Tribunal delivers the verdict to the body which addressed itself with the question concerning a point of law and sends a copy of that verdict to the body which issued the act covered by the verdict, and when such concerns a decree—to the Sejm.

5. In cases described under sec 3, the proceeding suspended under provisions of Art. 10 sec 2 is restarted after having the Sejm resolve the conformity of the legislative act with the Constitution and with respect to other normative acts—after bringing about conformity of these acts with the Constitution or legislative acts, and in a case as specified under Art. 9 sec 1 —after loss of obligatory force by the act.

Article 23

1. The Constitutional Tribunal considers a motion or a legal question at a hearing, of which it notifies the requesting party, the body which issued the act covered by the motion, and where the motion concerns a decree—the Sejm and also the Prosecutor General of the Polish People's Republic. Presence at the hearing of the requesting party or its representative is obligatory. Taking part in the hearing may be the organ which issued the act covered by the motion or its representative. In cases considered by the Tribunal in its full composition, the presence of the Prosecutor General of the Polish People's Republic is also obligatory.

2. In a proceeding initiated following a legal question, the body which addressed itself with such a question is represented at the hearing by a representative so appointed by that body.

3. In the course of proceedings the Constitutional Tribunal may hear experts, may demand that state bodies and institutions as well as civic organizations present acts and documents, and also assemble other evidence which it shall deem necessary for adjudicating the case.

Article 24

Hearings in the Constitutional Tribunal are open to the public with the exception of hearings in cases specified under Art. 19 sec 2. With the exception of these cases, closing a hearing to the public may take place due to State security or official secrecy.

Article 25

1. The Constitutional Tribunal considers motions on legal questions concerning conformity of legislative acts with the Constitution in a bench of five judges, and motions on legal questions concerning to other normative acts—in a bench or three judges.

2. In cases of exceptional complexity the President of the Tribunal may order consideration of a motion by the Tribunal in its full bench.

Article 26

The Constitutional Tribunal rules a verdict after conducting a hearing. Verdicts are given in the name of the Polish People's Republic. They are drawn up in written form, with reasons.

Article 27

1. The verdict of the Constitutional Tribunal is final.

2. In case of rulings by the Constitutional Tribunal on non-conformity with the Constitution or legislative acts of a normative act issued by a high or central body of state administration, the Council of Ministers or Chairman of the Council of Minister may, within a month from delivery of the verdict, submit motion for a reconsideration of the case by the Tribunal in its full bench.

3. The right specified under sec 2 is vested on the Council of State or Chairman of the Council of State when non-conformity is ruled between the Constitution or a legislative act and a normative act of the Council of State, President of the Council of State or another high or central state body which is not an body of state administration; this right does not extend to Tribunal verdicts concerning decrees.

Article 28

1. A judicial or arbitration proceeding concluded by a final verdict ruled with reference to a legal regulation which due to a verdict of the Constitutional Tribunal has been, as contradictory with the Constitution or a legislative act, changed or repealed in part or in its entirety, can be revived in the way and under principles specified in provisions concerning judicial or arbitration proceedings, with the reservation that concerning verdicts in civil and arbitration proceedings, the revival of proceedings can take place no later than before passage of respectively five and three years from the day when the original verdict became final.

2. Final penal verdicts and warrants in minor offence cases as well as final rulings in cases concerning offences and transgressions against the treasury and falling under the jurisdiction of financial adjudicating bodies settled in application of a law regulation specified under sec 1, are quashed in a way and under principles defined in regulations governing procedure in minor offences cases and stipulated in treasury penal law concerning the quashing of final verdicts, when no more than three years elapsed since such a verdict, warrant or ruling became final.

3. Final decisions issued in general administrative procedure with application of a law regulation specified under sec 1, is considered void in the way and under principles established in the Code of administrative procedure in the part concerned with ruling an administrative decision null and void and the connected compensation claims; in cases where legal regulations and circumstances of the case so dictate—the organ ruling a decision to be null and void may at the same time issue a decision resolving the merits of the matter.

4. Final verdicts and rulings issued in proceedings other than those listed under sec 1-3 in application of a regulation specified under sec 1, at the request of the party, are waived by the body which issued such a verdict or ruling, when no more than three years elapsed since a verdict or ruling.

Article 29

The Constitutional Tribunal publishes a collection of its verdicts.

Article 30

1. The President of the Constitutional Tribunal at least once a year convenes a general assembly of Tribunal judges at which will be discussed the activities of the Tribunal and the problems caused by its verdicts.

2. The President of the Constitutional Tribunal invites to take part in the General assembly: chairmen of the interested Sejm committees, the chairman of the Supreme Chamber of Control, the Minister of Justice, the First President of

the Supreme Court, President of the High Administrative Court, Chairman of the State Economic Arbitration and the Prosecutor General of the Polish People's Republic.

3. The President of the Tribunal may address himself to the Speaker of the Sejm, President of the Council of State and Chairman of the Council of Ministers to take part in the general assembly or to delegate their representatives.

Article 31

The Constitutional Tribunal submits to the Sejm information concerning significant problems caused by Tribunal activities and rulings.

Article 32

1. The specific manner of procedure in the Constitutional Tribunal is determined by the Sejm in form of a resolution; the resolution to this effect is to be published in the *Dziennik Ustaw/Legislative Gazette/* of the Polish People's Republic.

2. The Rules governing procedures of the Constitutional Tribunal and the organization of the Bureau is established by the Constitutional Tribunal.

CHAPTER 7

CHANGES IN PROVISIONS IN FORCE,
TRANSITIONAL AND FINAL PROVISIONS

Article 33

The law of July 31, 1981, on remuneration of persons holding management state post/*Dziennik Ustaw* No. 20/1981 item 101 and No. 31/1982 item 214/Article 2 point 1 is amended at the end with the addition of the words: and the President and Vice President of the Constitutional Tribunal.

Article 34

1. For the first bench of the Constitutional Tribunal the Sejm elects half of that bench for a period of four years and half for a period of eight years.

2. Election of the first bench of the Tribunal is to be effected by the Sejm no later than by December 1, 1985; the term of members of that bench runs from December 1, 1985.

3. The President of the Constitutional Tribunal elected in the manner specified under sec 2 is charged during the period until December 1, 1985, with functions connected with organizing the Constitutional Tribunal.

4. Expenses connected with organization and functioning of the Tribunal during the period until December 31, 1985, are reimbursed out of the budget of the Sejm Chancellery.

Article 35

1. Provisions of this law, with reservations of sec 2, apply to legislative acts or other normative acts promulgated, approved or passed after the day of its entry into force.

2. With respect to the acts specified under sec 1 enacted prior to entry into force of this law, proceedings in the Constitutional Tribunal may be initiated when the said acts were promulgated and, as concerns decrees—approved, or became binding—following the day of entry into force of the law of March 26, 1982 on amending the Constitution of the Polish People's Republic/Dziennik Unstawa No. 11/1982, item 83/Art. 4 sec 1 is respectively applicable to these acts.

3. The time specified under Art. 21 counted, with respect to the acts specified under sec 2, since the day of entry into force of this law.

Article 36

This law comes into force on January 1, 1986, with the exception of provisions of Art. 32 and 34 which come into force on the day of publication.

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