



Strasbourg, 25 January 2016

**CDL-REF(2016)009**  
Engl. Only

**Opinion No. 833/ 2015**

**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**ACT OF 25 JUNE 2015 ON THE CONSTITUTIONAL COURT**  
**OF POLAND**

**AND**

**AMENDMENTS**

---

*This document will not be distributed at the meeting. Please bring this copy.*  
[www.venice.coe.int](http://www.venice.coe.int)

Warsaw, 30 July 2015

Item no. 1064

## **ACT**

of 25 June 2015

### **on the Constitutional Court<sup>1)</sup>**

#### **Section 1 General provisions**

**Art. 1.** The Constitutional Court, hereafter referred to as „the Court”, is a judicial authority established for the purpose of carrying out the competences specified in the Constitution and the Acts.

**Art. 2.** The seat of the Court shall be the capital city of Warsaw.

**Art. 3.** 1. The Court shall adjudicate on the matters of the compliance of:

- 1) Acts and international agreements with the Constitution;
- 2) Acts with ratified international agreements whose ratification required prior consent expressed in an Act;
- 3) Provisions of law issued by central state authorities with the Constitution, ratified international agreements and Acts.

2. The Court shall adjudicate on the matters of compliance with the Constitution of an Act or other normative act questioned in a constitutional complaint referred to in Art. 79 Para. 1 of the Constitution

3. The Court shall adjudicate on the matters of compliance with the Constitution, with ratified international agreements or with an Act of a normative act questioned in a question of law referred to in Art. 193 of the Constitution.

4. The Court shall adjudicate on the matters of compliance with the Constitution of the aims or activities of political parties.

5. The Court shall resolve competence-related disputes between central constitutional authorities of the State.

6. The Court shall decide on establishing an obstacle to holding of the office by the President of the Republic of Poland. In case of ascertaining temporary impossibility of holding of the office by the President of the Republic of Poland, the Court shall entrust temporary performance of the duties of the President of the Republic of Poland to the Speaker of the Sejm.

**Art. 4.** Whenever the provisions of the Act refer to „an Act”, this shall be understood to include also normative acts referred to in Art. 234 of the Constitution, and other normative acts issued under the provisions in force prior to the entry into force of the Constitution that had legal force equal to the legal force of an Act.

**Art. 5.** 1. The Court shall signal to the Sejm and the Senate and to other legislative bodies the existence of flaws and gaps in the law whose elimination is necessary for ensuring the cohesion of the legal system of the Republic of Poland.

2. President of the Court may request the addressee of the signalling to inform the Court on their position on the subject matter of the signalling.

**Art. 6.** 1. President of the Court shall submit to the Sejm and the Senate each year information on essential problems arising from the activities and rulings of the Court.

2. The information referred to in Para. 1 shall not be voted on in the Sejm and the Senate.

3. The information referred to in Para. 1 shall be passed by the President of the Court to: President of the Republic of Poland, President of the Council of Ministers, First President of the Supreme Court, President of the Supreme Administrative Court, Chairman of the National Council of the Judiciary, General Prosecutor, Minister of Justice, The Ombudsman, The Ombudsman for Children, President of the Supreme Chamber of Control, Chairman of the National Broadcasting Council and President of the National Bank of Poland.

## **Section 2 Governing bodies of the Court**

**Art. 7.** The governing bodies of the Court shall be the General Assembly of Court judges, hereafter referred to as „the General Assembly”, and President of the Court.

**Art. 8.** The competences of the General Assembly shall include:

- 1) Approving the information referred to in Art. 6 Para. 1;
- 2) Electing the candidates for the positions of the President and Deputy President of the Court;
- 3) Giving consent to a Court judge being prosecuted and imprisoned;
- 4) Ascertaining expiration of the mandate of a Court judge;
- 5) Ascertaining loss of the status of a retired Court judge;
- 6) Passing of the Rules of Procedure of the Court;
- 7) Passing of the Statute of the Court Office;
- 8) Passing of a draft plan of revenues and expenditures of the Court;
- 9) Performing other actions provided for the General Assembly in the Act and in the Rules of Procedure of the Court.

**Art. 9.** 1. The General Assembly shall deliberate at sessions.

2. A session of the General Assembly shall be called by President of the Court, who shall establish the meeting agenda and chair the session.

3. The date and the agenda of a General Assembly session shall be notified by the President of the Court to the Court judges 7 days prior to the meeting date at the latest.

4. In especially justified cases, President of the Court may resign from observing the deadline referred to in Para. 3.

**Art. 10.** 1. The General Assembly shall pass resolutions by an ordinary majority of votes, in presence of at least 2/3 of the total number of Court judges, including President or Deputy President of the Court, unless the Act provides for another majority.

2. The voting shall be open, unless any of the Court judges requires exclusion of the openness. Voting with exclusion of the openness shall be carried out on the matters referred to in Art. 8 Items 2–5.

**Art. 11.** 1. President of the Court shall each year call a public session of the General Assembly which shall discuss the material problems arising from the activities and rulings of the Court presented in the information referred to in Art. 6 Para. 1.

2. President of the Court shall provide notification about calling of a public session of the General Assembly, and shall invite to participation in the session in particular: President of the Republic of Poland, Speaker of the Sejm, Speaker of the Senate, representatives of the public authorities referred to in Art. 6 Para. 3, as well as chairmen of the appropriate Sejm and Senate commissions.

**Art. 12.** 1. President of the Court shall be appointed by the President of the Republic of Poland out of two candidates presented by the General Assembly.

2. Candidates for the position of President of the Court shall be elected by the General Assembly, not later than 3 months before the expiration date of the term of office for President of the Court, out of the Court judges who have consecutively obtained the largest number of votes during the voting. Should the position of President of the Court become vacant, election of the candidates shall be carried out within 30 days.

3. The session on the election of candidates for the position of President of the Court shall be chaired by the eldest Court judge.

4. The resolution on the election of candidates for the position of President of the Court shall be immediately passed to The President of the Republic of Poland.

5. Provisions of Paragraphs 1, 2 and 4 shall apply respectively to Deputy President of the Court.

**Art. 13.** 1. President of the Court shall direct the work of the Court, represent the Court outside and perform other actions specified in the Act and Rules of Procedure of the Court.

2. Deputy President of the Court shall replace President of the Court during the President's absence, and shall perform other actions following from the division of duties established by President of the Court.

3. In case of obstacles to fulfilment of their duties by President and Deputy President of the Court, President of the Court shall be replaced by the Court judge appointed by President of the Court, and if no Court judge has been appointed – by the eldest Court judge.

**Art. 14.** 1. The plan of revenues and expenditures of the Court referred to in Art. 8 Item 8 shall be included in the draft State Budget by the Minister competent for the affairs of public finances.

2. With regard to the execution of the Court's budget, President of the Court shall be entitled to the rights of the Minister competent for the affairs of public finances.

**Art. 15.** 1. Internal organization of the Court's work and the work of its governing bodies, including the duties of Court judges following from the foregoing, and other matters indicated in the Act shall be specified by Rules of Procedure of the Court.

2. Rules of Procedure of the Court shall be published in the Official Journal of the Republic of Poland „Monitor Polski”.

### **Section 3 Judges of the Court**

**Art. 16.** A Court judge shall be independent in exercising their office and shall be only subordinated to the Constitution.

**Art. 17.** 1. The Court shall be composed of fifteen judges.

2. Court judges shall be elected on an individual basis, for nine-year terms of office, by the Sejm by an absolute majority of votes, in presence of at least half the statutory number of delegates. A repeated election to the Court shall not be allowed.

**Art. 18.** A person eligible for being elected to the position of a Court judge shall be one which has outstanding legal knowledge and:

- 1) Possesses qualifications required for holding the position of a Supreme Court judge;
- 2) On the election day, has attained full 40 years of age, but has not attained 67 years of age.

**Art. 19.** 1. The bodies entitled to proposing a candidate for a Court judge shall be Presidium of the Sejm and a group of at least 50 delegates.

2. Motions on proposing a candidate for a Court judge shall be submitted to the Speaker of the Sejm not later than 3 months before the expiration date of the Court judge's term of office.

3. Should a Court judge's mandate expire prior to the expiration of the judge's term of office, the time for submitting the motion referred to in Para. 2 shall be 21 days.

4. The authority competent under Rules of Procedure of the Sejm shall give its opinion on the motion referred to in Para. 2.

5. Detailed requirements concerning the motion and the manner of handling the motion shall be specified by Rules of Procedure of the Sejm.

**Art. 20.** If voting has not ended with electing a Court judge, the time for submitting a new motion on proposing a candidate for a Court judge shall be 14 days from the voting day.

**Art. 21.** 1. The person elected to the position of a Court judge shall take an oath with the following wording vis a vis the President of the Republic of Poland:

“I do solemnly swear that when fulfilling the duties of a Constitutional Court judge entrusted to me I shall faithfully serve the Nation and guard the Constitution of the Republic of Poland, doing this impartially, according to my conscience and with the utmost diligence, and guarding the dignity of the office held by me.”

The oath may be taken with the additional sentence “So help me, God.”

2. Refusal to take the oath shall be tantamount to resigning from the position of a Court judge.

**Art. 22.** A Court judge shall be authorized to access to classified information related to the case being examined by the Court.

**Art. 23.** 1. A Court judge may not belong to a political party or a trade union or pursue a public activity that cannot be reconciled with the principles of judicial independence or judge's independence.

2. A Court judge may not take up additional occupation, except for employment as a teaching and research worker, teaching worker or research worker with a single employer, in the total number of hours not exceeding the dimension of full time employment of the employees employed in such a character, provided this does not hamper fulfilling the duties of a Court judge.

3. The Court judge may not take up other occupation, whether of lucrative or not, which would hamper the fulfilment of the judge's duties, would prejudice the dignity of the Court judge's office, or could undermine the trust in the judge's impartiality or independence.

4. On the intent to take up employment or other occupation referred to in Paras. 2 and 3, as well as on the intent of continuing them by judge taking up a position in the Court, the Court judge shall notify the President of the Court. President of the Court shall give information in writing on his/her objections if the President deems that taking up or continuing the employment or other occupation will hamper fulfilment of the duties, prejudice the dignity of the Court judge's office or undermine the trust in the judge's impartiality or independence.

**Art. 24.** 1. The Court judge may not be prosecuted or imprisoned without the consent of the General Assembly.

2. Until expressing of the consent to prosecution of a Court judge or the consent to imprisoning of a Court judge, only actions with respect to that judge which may be taken without undue delay.

3. A Court judge may not be detained or arrested, except for the case of catching the judge in a criminal act, if detainment of the judge is necessary for ensuring the correct course of proceedings.

4. The detainment shall be immediately notified to President of the Court, who can order immediate release of the detainee.

**Art. 25.** 1. Request for the consent to prosecuting a Court judge and request for the consent to imprisoning a Court judge, if the offence is indictable, shall be submitted by the General Prosecutor.

2. Request for the consent to prosecuting a Court judge if the offence is not indictable shall be prepared by a solicitor or legal adviser. This requirement shall not apply to requests prepared in their own name by judges, prosecutors, legal advisers, advisers to the State Treasury Solicitors' Office, notaries public and full professors or associate professors of legal sciences.

**Art. 26.** 1. Request for the consent to prosecuting a Court judge and request for the consent to imprisoning a Court judge shall be submitted to the President of the Court.

2. The request shall specify: full name of the Court judge, the offence that the Court judge is to be prosecuted or imprisoned for, and the circumstances of its committing.

**Art. 27.** 1. The consent to prosecuting a Court judge and to imprisoning a Court judge shall be given by way of General Assembly resolution, taken by an absolute majority of votes, not later than within a month from the request submission day.

2. Prior to passing of the resolution, the Court judge concerned by the request may present explanations to the General Assembly.

3. The session and the voting shall take place without participation of the Court judge that the request applies to.

**Art. 28.** 1. The Court judge shall bear disciplinary responsibility vis a vis the Court for violating the provisions of law, prejudicing the dignity of a Court judge's office or other unethical behaviour that can undermine confidence in the judge's impartiality or independence.

2. A Court judge shall bear disciplinary responsibility also for the judge's conduct before taking the position, if the judge has failed the duty of the state office held or has proved unworthy of a Court judge's office.

3. For petty offences, a Court judge shall only bear disciplinary responsibility.

**Art. 29.** 1. The ruling in disciplinary proceedings shall be given by:

- 1) in the first instance – three Court judges;
- 2) in the second instance – five Court judges.

2. The Court judges for adjudicating panels and the representative for disciplinary proceedings shall be established by drawing of lots by President of the Court. The drawing of lots for the second instance panel shall be carried out without participation of the Court judges who have adjudicated on the case in the first instance.

**Art. 30.** The disciplinary ruling issued in the second instance shall not be subject to a cassation appeal.

**Art. 31.** Disciplinary penalties shall include:

- 1) warning;
- 2) reprimand;
- 3) deposing of a Court judge from the judge's office.

**Art. 32.** The working time of a Court judge shall be determined by the volume of the judge's tasks.

**Art. 33.** 1. The basic salary of Court judge shall be the multiplicity of the basis for establishing that salary, calculated using the multiplier 5.0.

2. The basis for establishing the basic salary of a Court judge in a given year shall be the average salary in the second quarter of the preceding year announced in the Official Journal of the Republic of Poland „Monitor Polski” by the President of the Central Statistical Office under Art. 20 Item 2 of the Act of 17 December 1998 on pensions and disability pensions from the Social Security Fund (Journal of Laws of 2015 item 748).

3. If the average salary referred to in Para. 2 is lower than the average salary announced for the second quarter of the preceding year, the basis for establishing the basic salary of a Court judge shall be adopted at the level existing until that time.

4. Salaries of President and Deputy President of the Court shall be equal to the basic salary of a Court judge increased by a functional allowance established according to the basis referred to in Para. 2, using the multipliers 1.2 and 0.8, respectively.

**Art. 34.** A Court judge with permanent place of residence outside the capital city of Warsaw shall be entitled to free accommodation in the capital city of Warsaw and reimbursement of the travel expenses and supplement on account to being parted from the family on the principles specified in the provisions issued under Art. 26 Para. 2a of the Act of

16 September 1982 on state employees (Journal of Laws of 2013 Item 269 and of 2014 Item 1199).

**Art. 35.** 1. Court judges shall be obliged to submit a financial disclosure statement on the principles specified in the Act of 21 August 1997 on restricting pursuit of economic activities by persons performing public functions (Journal of Laws of 2006 No. 216, Item 1584, as amended.<sup>2)</sup> ).

2. President of the Court shall analyse the data contained in the financial disclosure statement and pass one copy to the head of the Tax Office with geographical competence for the Court judge's place of residence.

**Art. 36.** 1. The mandate of a Court judge shall expire before expiration of the judge's term of office in case of:

- 1) death of the Court judge;
- 2) resignation of the Court judge from the office;
- 3) sentencing of the Court judge with a valid court ruling for an indictable offence or a deliberate fiscal offence;
- 4) valid ruling deposing the Court judge from the office.

2. Expiration of a Court judge's mandate shall be stated by:

- 1) in the case referred to in Para. 1 Item 1 – by President of the Court through a decision;
- 2) in the cases referred to in Para. 1 Items 2–4 – by the General Assembly through a resolution.

3. President of the Court shall immediately convey to the Speaker of the Sejm the decision or resolution stating the expiration of a Court judge's mandate.

**Art. 37.** After completing the term of their Office, a Court judge shall retire.

**Art. 38.** 1. A Court judge may, at the judge's own request, get retired, if due to sickness, disability or loss of strength the judge has been recognized by a certified occupational medicine physician of the Social Security Institution as permanently unable to fulfil the duties of a Court judge.

2. In an especially justified case, the request for issuance of a certificate on permanent inability to fulfil the duties of a Court judge due to the judge's sickness, disability or loss of strength may be submitted by the General Assembly.

3. A resolution on the retirement of a Court judge permanently unable to fulfil the duties of a judge shall be taken by the General Assembly. The resolution shall specify the date of the judge's retirement, tantamount to the end of the Court judge's term of office.

**Art. 39.** 1. A retired Court judge shall be obliged to observe the dignity of a Court judge's office.

2. A retired Court judge shall bear disciplinary responsibility for violating the provisions of law and prejudicing the dignity of a Court judge office.

3. Art. 29 and Art. 30 shall apply respectively to the disciplinary responsibility of a retired Court judge, and the disciplinary penalties shall be:

- 1) warning;



- 2) reprimand;
- 3) loss of the status of a retired judge.

**Art. 40.** 1. In case of either retiring or getting retired, a Court judge shall be entitled to a single-time retirement benefit in the amount of a six-month remuneration that the judge has received most recently.

2. A retired Court judge shall be entitled to a monthly remuneration in the amount of 75% of the monthly salary received most recently, excluding the functional allowance. The remuneration shall be updated proportionally to the changes in the basic salary of Court judges

**Art. 41.** 1. Loss of a retired Court judge's status shall ensue in case of:

- 1) resignation from that status by a retired Court judge;
- 2) sentencing of a retired Court judge with a valid court ruling for a deliberate indictable offence or a deliberate fiscal offence;
- 3) valid ruling on depriving a retired Court judge of that status.

2. Loss of a retired judge's status shall be stated by the General Assembly through a resolution.

**Art. 42.** 1. Provisions of Arts. 23–27 shall apply respectively to a retired Court judge.

2. The ban on additional employment referred to in Art. 23 Para. 2 shall not apply to appointment, designation or election of a retired Court judge to a position in state authorities, with respect to which the Rules of Procedure establish prohibition of belonging to a political party, or in international judicial bodies, in particular in the Court of Justice of the European Union or in the European Court of Human Rights.

3. Payment of the remuneration referred to in Art. 40 Para. 2 shall be suspended for the time of holding the position referred to in Para. 2, unless the retired Court judge submits immediately to President of the Court a declaration on resigning from the salary due to the judge on that position. In case of a failure to submit a declaration on resigning from the due salary, during the time of holding of that position by the Court judge, the premiums due from the retired judge on account on general health insurance can be paid on behalf of the judge out of the Court's budget means.

4. A retired Court judge shall be paid the remuneration specified in Art. 40 Para. 2 starting from the day immediately following the day on which the judge stopped holding the position referred to in Para. 2, unless the judge has acquired on that account the right to other benefit in an amount higher than the retired Court judge's remuneration.

**Art. 43.** To the extent not regulated in the Act, the obligations and rights, including those within the scope of the service relationship and disciplinary responsibility of Court judges, the provisions of the Act of 23 November 2002 on the Supreme Court (Journal of Laws of 2013 Item 499, as amended<sup>3)</sup>) shall apply, whereby the competences of the First President of the Supreme Court shall be performed by President of the Court, and those of the Supreme Court Collegium – by the General Assembly.

#### **Section 4**

##### **Proceedings at the Court – general principles**

**Art. 44.** 1. The Court shall adjudicate:

- 1) As Plenary Court in the cases:
  - a) concerning compliance of Acts before their signing and international agreements before their ratification with the Constitution,
  - b) concerning stating the existence of an obstacle to holding of the office by the President of the Republic of Poland and entrusting the Speaker of the Sejm with temporary performance of the duties of The President of the Republic of Poland,
  - c) concerning compliance with the Constitution of the aims or activities of political parties,
  - d) concerning competence-related disputes between central constitutional authorities of the state,
  - e) in which the adjudicating panel of the Court intends to deviate from a legal view expressed in a ruling issued by the Court en banc,
  - f) of special complexity or importance;
- 2) In a panel of five Court judges in the cases concerning compliance of:
  - a) Acts and international agreements with the Constitution,
  - b) Acts with international agreements whose ratification required prior consent expressed in an Act;
- 3) In a panel of three Court judges in the cases concerning:
  - a) compliance of the provisions of law issued by central state authorities with the Constitution, ratified international agreements and Acts,
  - b) compliance of other normative acts with the Constitution, ratified international agreements or Acts,
  - c) initiating proceedings or refusal to initiate proceeding on a constitutional complaint or petition of the entity referred to in Art. 191 Para. 1 Items 3–5 of the Constitution,
  - d) exclusion of a judge.

2. The decision whether a case is to be recognised as particularly complicated or particularly important shall be made by President of the Court either on the President's own initiative or on the request of the adjudicating panel, whereby particularly important cases shall include especially those whose resolution may involve large financial outlays not provided for in the Budget Act.

3. Adjudication by Plenary Court shall require participation of at least nine Court judges.

4. A hearing or session en banc shall be chaired by President or Deputy President of the Court, and if there are premises for excluding them from participation in adjudicating or other important reasons – by the eldest Court judge.

**Art. 45.** 1. Judges for the adjudicating panel of the Court, including chairman of the panel and the reporting judge, shall be appointed by President of the Court according to an alphabetic list of judges, taking thereby into consideration the types and number of cases and the order of their arrival at the Court.

2. President of the Court may, in particularly justified cases, especially due to the subject matter of the examined case, or the possibility of keeping the due date for holding the first session, specified according to either Para. 3 or Art. 86 Item 1, appoint a reporting judge resigning from the criteria listed in Para. 1.

3. President of the Court may set the date of the first session of the adjudicating panel.

**Art. 46.** 1. A Court judge shall be excluded from examination of a case if the judge:

- 1) has issued the normative act which is the subject matter of the petition, question of law or constitutional complaint;
- 2) has issued a ruling, an administrative decision or other resolution on the subject of the question of law or constitutional complaint;
- 3) is a participant of the proceedings or is in such a legal relationship with a participant of the proceedings that the outcome of the case may affect the judge's rights and obligations;
- 4) has been a representative, a proxy or an advisor to a participant of the proceedings;
- 5) is a party to the proceedings in the case in which the question of law has been presented, or a party to these proceedings is the judge's spouse, relative by blood or by affinity in the direct line, relative by blood in a side line up to the fourth degree or relative by affinity in a side line up to the second degree.

2. A Court judge shall also be excluded from participating in examination of a case if:

- 1) the judge has participated in issuing a normative act, a ruling, an administrative decision or other resolution referred to in Para. 1 Items 1 and 2, and this may cause doubts as to the judge's impartiality;
- 2) there are other circumstances, not listed in Item 1 or Para. 1, that may raise doubts as to the judge's impartiality.

3. In the case referred to in Para. 2, a Court judge shall be excluded from examination of the case, if existence of circumstances that may raise doubts as to the judge's impartiality has been proven likely.

**Art. 47.** 1. A Court judge shall immediately inform President of the Court about circumstances that may result in excluding the judge from participation in examination of the case.

2. Until resolution on the matter of excluding the judge from participation in examination of the case, the Court judge may only perform actions that cannot suffer any delay.

**Art. 48.** 1. Exclusion of a Court judge from participation in examination of a case shall be effected on the judge's request, ex officio or on the request of a participant of the proceedings.

2. Exclusion of a Court judge for the reasons referred to in Art. 46 Para. 1 shall be stated by President of the Court by way of a decision.

3. Exclusion of a Court judge for the reasons referred to in Art. 46 Para. 2 shall be decided by the Court.

**Art. 49.** 1. Proceedings at the Court shall be initiated based on a petition, a question of law or a constitutional complaint by an authorized entity.

2. Withdrawal of a petition, a question of law or a constitutional complaint can take place at the latest 7 days from the delivery date of the notification on the hearing date.

3. If the case is examined at a closed door session, the withdrawal of a petition, a question of law or a constitutional complaint can take place at the latest 7 days from the delivery date of the notification referred to in Art. 93 Para. 3.

**Art. 50.** 1. When adjudicating, the Court shall be bound by the scope of appeal indicated in the petition, question of law or constitutional complaint.

2. The scope of appeal shall include indication of the questioned normative act or its part (specification of the subject matter of control) and formulation of the charge of its non-compliance with the Constitution, ratified international agreement or Act (indication of the pattern of control).

3. The subject matter of the charge may be:

1) competence for issuing a normative act or the procedure of its issuing (legislative activity);

2) contents of a normative act or its part.

**Art. 51.** The Court shall examine in the course of the proceedings all essential circumstances conducive to comprehensive clarification of the case.

**Art. 52.** 1. The Court may turn to the Supreme Court, the Supreme Administrative Court and common, administrative and military courts for providing information on the interpretation of a specific rule of law in judicial rulings or on its application.

2. The chairman of the adjudicating panel shall pass the information referred to in Para. 1 to participants of the proceedings.

**Art. 53.** 1. Courts and other public authorities shall be obliged to provide assistance to the Court, and on its request present the files of the proceedings connected with proceedings at the Court, as well as provide information necessary for comprehensive clarification of the case.

2. The Court, after making use of the files of the proceedings, shall return them immediately to the appropriate body.

**Art. 54.** 1. Proceedings at the Court shall be carried out in writing, unless the Act provides otherwise.

2. A petition, question of law and constitutional complaint and other letters from the participants of the proceedings shall be submitted in a number of copies that will allow for delivering them to other participants and leaving two copies in the case file.

**Art. 55.** 1. Hearings at the Court shall be open, unless the Act provides otherwise. Chairman of the adjudicating panel may exclude openness of the hearing due to the security of the state or protection of classified information with the „secret” or „strictly secret” clause.

2. A witness or an expert may be interrogated as to circumstances that represent classified information with the „secret” or „strictly secret” clause after having been released from the obligation to preserve secrecy by an authorized authority. Refusal of consent can only be justified by an important interest of the state.

3. A witness or an expert shall not make use of the right to refuse giving evidence if the Court deems refusal of the consent of the body referred to in Para. 2 unjustified.

**Art. 56.** Participants of proceedings at the Court shall include:

1) entity that has submitted a petition, hereafter referred to as „petitioner”;

- 2) court that has submitted to the Court a question of law, hereafter referred to as „questioning court”;
- 3) entity that has submitted a constitutional complaint, hereafter referred to as „complainant”;
- 4) authority that has issued the normative act being the subject matter of the petition, question of law or constitutional complaint;
- 5) General Prosecutor;
- 6) Council of Ministers, except for the cases referred to in Art. 3 Paras. 4 and 5;
- 7) The Sejm, President of the Republic of Poland and the Minister competent for foreign affairs in cases concerning compliance of international agreements ratified under Art. 89 Para. 1 of the Constitution with the Constitution;
- 8) The Sejm, Senate, President of the Republic of Poland and the Minister competent for foreign affairs in cases concerning compliance of international agreements ratified under Art. 89 Para. 1 of the Constitution with the Constitution;
- 8) The Sejm, Senate, President of the Republic of Poland and minister competent for foreign affairs in cases concerning compliance of international agreements ratified under Art. 90 Paras. 2 and 3 of the Constitution;
- 9) President of the Republic of Poland and the Minister competent for foreign affairs in the cases concerning compliance of other ratified international agreements with the Constitution;
- 10) The Ombudsman, if the latter has reported the wish to participate in the proceedings;
- 11) The Ombudsman for Children, if the latter has reported the wish to participate in the proceedings initiated on the Ombudsman’s request or in proceedings on a constitutional complaint concerning rights of a child;
- 12) central constitutional authority of the state which is in dispute in proceedings on resolving a competence-related dispute;
- 13) statutory governing body of a political party in proceedings on compliance of the aims of activities of political parties with the Constitution;
- 14) entities referred to in Art. 117 Para. 3 in proceedings on establishing an obstacle to holding of the office by the President of the Republic of Poland.

**Art. 57.** 1. A participant of the proceedings shall act at the Court either personally or through a duly authorized representative or proxy.

2. A representative of the questioning court can only be a judge of the adjudicating panel in the case in which the question of law has been asked.

3. The cases on which the Court adjudicates en bloc shall require personal participation by the General Prosecutor or by one of Deputy General Prosecutors, while in the cases in which the Court adjudicates in other compositions a representative of the General Prosecutor may be any prosecutor from the General Prosecutor’s office.

4. Representatives of the Sejm, Speaker of the Sejm and of a group of delegates can only be delegates. A group of delegates and Speaker of the Sejm, if the latter is the petitioner, may appoint, besides the representatives, no more than 2 proxies who are not delegates.

5. Representatives of the Senate, Speaker of the Senate and a group of senators can only be senators. A group of senators and Speaker of the Senate, if the latter is the petitioner, may appoint, besides the representatives, no more than 2 proxies who are not senators.

6. Representatives of the entities referred to in Paras. 4 and 5 may be accompanied during the hearing by no more than two employees of, respectively, the Sejm Office and the Senate Office.

**Art. 58.** 1. Participants of proceedings shall be obliged to submit to the Court all clarifications and information regarding the case and evidence motions needed for its resolution.

2. The Court shall not be bound by the evidence motions submitted by participants of proceedings, and may *ex officio* admit evidence that it deems useful for resolving the case.

**Art. 59.** Files of a case pending at the Court shall be open. Viewing of the case files and making and receiving certified copies, copies or excerpts from of those files in a scope covering personal data shall be permissible after making the data anonymous.

**Art. 60.** The petition, question of law and constitutional complaint should meet the requirements provided for a procedural writ.

**Art. 61.** 1. A petition filed by the entities referred to in Art. 191 Para. 1 Items 1–5 of the Constitution shall contain:

- 1) specification of the subject matter of control;
- 2) indication of the control pattern;
- 3) justification for the charge of non-compliance of the subject matter of control with the indicated control pattern, with referral to arguments or evidence supporting the charge.

2. A petition filed by a group of delegates to the Sejm or senators shall be accompanied by the list of delegates or senators supporting the petition, together with their signatures.

**Art. 62.** 1. A petition filed by the entity referred to in Art. 191 Para. 1 Items 3–5 of the Constitution should also:

- 1) justify, by quoting a rule of law or provision of a statute, that the questioned Act or other normative act applies to the matters covered by operating scope of the petitioner;
- 2) in case of the entity referred to in Art. 191 Para. 1 Item 4 of the Constitution, quote a rule of law or of a statute indicating that the petitioner is a national body or a national authority.

2. A petition shall be accompanied by:

- 1) resolution or other decision of the entity referred to in art. 191 Para. 1 Items 3–5 of the Constitution that constitutes the grounds for filing a petition and specifies the subject matter and pattern of control;
- 2) minutes of the meeting of a body or governing body of the entity referred to in Art. 191 Para. 1 Item 4 of the Constitution that allow for establishing that the resolution referred to in Item 1 has been passed according to the rules of law or provisions of the statute;
- 3) in case of the entity referred to in art. 191 Para. 1 Item 4 of the Constitution – an up to date, certified extract from the National Court Register.

**Art. 63.** 1. A question of law shall have the form of a decision.

2. A question of law shall contain:

- 1) specification of the subject matter of control;
- 2) indication of the control pattern;
- 3) justification for the charge of non-compliance of the subject matter of control with the indicated control pattern, with referral to arguments or evidence supporting the charge;
- 4) designation of the case that the question of law has been presented in connection with;
- 5) explanation to what extent the response to a question of law may influence resolution of the case that it has been presented in connection with.

3. A question of law shall be accompanied by files of the case that it has been presented in connection with.

**Art. 64.** A constitutional complaint, hereafter referred to as a „complaint”, shall be filed after exhausting of the legal measures by the complainant, within 3 months of delivery of a legally binding sentence, final decision or other ultimate adjudication to the complainant.

**Art. 65.** A complaint should:

- 1) specify the subject matter of control – a provision of an Act or other normative act, based on which a court or public administration body has made a final decision on the freedoms or rights or obligations of the complainant specified in the Constitution, and with respect to which the complainant demands stating non-compliance with the Constitution;
- 2) indicate what constitutional freedom or what right of the complainant, and in what way – in the complainant’s opinion – has been violated;
- 3) justify the charge of non-compliance of the subject matter of control with the indicated constitutional freedom or right, together with quoting the arguments or evidence supporting it;
- 4) present the actual state of things, and:
  - a) document the delivery date of the sentence, decision or other resolution referred to in Art. 64,
  - b) inform whether extraordinary means of appeal against the sentence, decision or other resolution referred to in Art. 64, have been filed.

2. The complaint shall be accompanied by:

- 1) the sentence, decision or other resolution issued based on the provision referred to in Para. 1 Item 1;
- 2) sentences, decisions or other resolutions that confirm exhausting of the legal measures referred to in Art. 64;
- 3) special power of proxy.

**Art. 66.** 1. With respect to preparing and filing a complaint and representing the complainant in proceedings at the Court, there is an obligation of the complainant being represented by a solicitor or legal advisor.

2. The provision of Para. 1 shall not apply if the complainant is a judge, prosecutor, solicitor, legal advisor or notary public, or either full professor or associate professor of legal sciences.

3. Should bearing the costs of legal assistance be impossible, the complainant can file at the district court of his place of residence a petition for establishing a solicitor or legal advisor for the complainant ex officio, under the provisions on civil proceedings.

4. Filing of the petition referred to in Para. 3 shall suspend the run of time for filing the complaint. The run of that time shall be recommenced on the first day after the date of:

- 1) delivering to the solicitor or legal advisor a decision of the competent authority on appointing the former a proxy of the complainant;
- 2) the court's decision to dismiss the petition for establishing a solicitor or legal advisor becoming final;
- 3) delivering to the complainant a decision dismissing a complaint on the decision to dismiss the petition for establishing a solicitor or legal advisor.

**Art. 67.** If the complainant has filed an extraordinary means of appeal, the Court may suspend the proceedings until examining that means.

**Art. 68.** 1. The Court may issue a temporary decision on suspending or stopping enforcement of the ruling in the case concerned by the complaint if enforcement of the ruling, decision or other resolution could cause irreversible effects for the complainant, or when this is justified by an important interest of the complainant or important public interest.

2. The decision shall be immediately delivered to the complainant and to the appropriate authority.

3. The Court shall rescind a temporary decision if the reasons for its issuance have ceased, but not later than on the day of issuing the final ruling in the complainant's case.

4. Should the Court issue a ruling stating non-compliance of the normative act or its part, the temporary decision shall expire after 3 months from the commencement date of the ruling.

**Art. 69.** In cases initiated based on a petition of a group of delegates or senators, referred to in Art. 191 Para. 1 Item 1 of the Constitution, the end of the Sejm and Senate term of office shall not stay the proceedings at the Court.

**Art. 70.** 1. On the final date of the Sejm and Senate term of office, proceedings at the Court in cases referred to in Art. 69 shall be suspended for 6 months.

2. If before the end of the Sejm and Senate terms of offices the Court has notified the petitioners of a date of hearing falling after its end, or that examination of the petition shall take place at a closed meeting, the proceedings in such cases shall not be suspended and may be continued without participation of the petitioner.

3. President of the Court shall, within 30 days from the final day of the Sejm and Senate terms of offices, convey to, respectively, Speaker of the Sejm and Speaker of the Senate, information on the cases referred to in Art. 69, with respect to which the Court has decided to suspend the proceedings.

**Art. 71.** 1. The Court shall decide to reopen suspended proceedings if within the time referred to in Art. 70 Para. 1 a petition by a group of delegates or senators gains the support of, respectively, 50 delegates or 30 senators of the next term of office of the Sejm and the Senate. The provision of Art. 61 Para. 2 shall apply respectively.

2. President of the Court shall immediately convey information on reopening suspended proceedings to participants of the proceedings.



3. After an ineffective expiration of the time-limit referred to in Art. 70 Para. 1, the Court shall discontinue the suspended proceedings.

**Art. 72.** 1. Expenses of proceedings at the Court shall be borne by the State Treasury.

2. In case of accepting the complaint, together with a ruling stating non-compliance of an Act or other normative act or their part being the subject matter of the complaint, the Court, by way of a decision, shall adjudicate for the complainant's benefit reimbursement of the costs of the proceedings, from the Sejm or the authority that has issued the normative act, respectively. In justified cases, the Court may also rule on reimbursement of the costs of the proceedings at the Court also when it has not accepted the complaint or has dismissed the proceedings on the complaint or has refused to initiate proceedings on the complaint.

3. To determine the costs of representing the complainant by a solicitor or a legal adviser, the Court shall apply the provisions on fees for actions of solicitors or legal advisors and on incurring by the State Treasury of the costs of unpaid legal assistance granted *ex officio*.

4. In justified cases, the Court may specify other level of the costs of representing the complainant by a solicitor or a legal adviser, depending on the nature of the case and the proxy's contribution to its clarification and resolution.

**Art. 73.** 1. The right to demand reimbursement of the costs of the proceedings shall expire if the complainant, at the latest before closing of the hearing which immediately precedes issuance of the ruling, does not file a petition for granting of the costs according to the prescribed norms.

2. In case of a complaint being examined by the Court at a closed doors hearing, the claim for reimbursement of the costs of the proceedings shall expire if the complainant, at the latest within 7 days from the date of delivering a notification on examination of the case at a closed doors hearing, does not file a petition for granting of the costs according to the prescribed norms.

**Art. 74.** On matters not regulated in the Act, proceedings at the Court shall be respectively governed by the provisions of the Act of 17 November 1964 – Civil Proceedings Code (Journal of Laws 2014 item 101, as amended.<sup>4)</sup> ).

## Section 5

### Initial check of petitions, questions of law and complaints

**Art. 75.** 1. If the contents or form of a letter filed to the Court do not allow for establishing that it is a procedural writ, President of the Court or a Court Office employee authorized by the President shall return the letter to the sender or call for its complementing under the penalty of returning the letter.

2. A letter corrected or complemented in time shall cause effects starting from the date of its filing.

**Art. 76.** 1. A petition submitted by the entity referred to in Art. 191 Para. 1 Items 1 and 2 of the Constitution and a question of law shall be forwarded for examination by President of the Court if they meet the requirements provided for in the Act.

2. If a petition or question of law do not meet the requirements provided for in the Act, and elimination of the deficiencies is possible, President of the Court shall issue an order calling for their elimination within 7 days from the delivery date of that order.

**Art. 77.** 1. A petition submitted by the entity referred to in art. 191 Para. 1 Items 3–5 Constitution and a complaint shall be forwarded for initial examination by President of the Court in order to resolve whether they meet the requirements which are the prerequisite for their further processing.

2. If a petition or complaint do not meet the requirements provided for in the Act, and elimination of the deficiencies is possible, chairman of the adjudicating panel shall issue an order calling for their elimination within 7 days from the delivery date of that order.

3. The Court shall issue a decision on refusing to initiate proceedings on a petition or a complaint, if:

- 1) the deficiencies referred to in Para. 2 have not been eliminated in time;
- 2) the petition or complaint has been withdrawn;
- 3) the petition or complaint is obviously groundless;
- 4) issuance of a ruling is superfluous or inadmissible;
- 5) the normative act has lost its binding force in the contested respect before issuance of a ruling.

4. The provision of Para. 3 Item 5 shall not apply if issuance of a ruling on the case is necessary for protecting constitutional freedoms and rights.

5. If a petition or complaint meet the requirements provided for in the Act and the circumstances referred to in Para. 3 do not occur, the Court shall issue a decision on initiating proceedings on the petition or complaint.

**Art. 78.** The complainant may require in the complaint that his/her personal data be not disclosed in the publication of the Court's decision referred to in Art. 77 Para. 3.

**Art. 79.** Internal course of proceeding with petitions, legal enquires and complaints shall be specified by Rules of Procedure of the Court.

## **Section 6 Hearings and sessions**

**Art. 80.** The President of the Court shall refer a petition, question of law or complaint for examination by an appropriate adjudicating panel.

**Art. 81.** 1. The Court shall examine the petition, question of law or complaint at a hearing or a closed door session.

2. The adjudicating panel shall decide on examining the petition, question of law or complaint at a hearing on its own initiative or after examining a motion on that matter filed by the petitioner or the questioning or accusing court.

3. The President of the Court may request the chairman of the adjudicating panel to examine the petition, question of law or complaint at a hearing, if this is justified by important public interest.

**Art. 82.** 1. The President of the Court shall inform the participants of the proceedings about directing the petition, question of law or complaint for examination by the adjudicating panel, delivering to them copies of the petition, question of law or complaint.

2. A participant of the proceedings, within 2 months of the notification delivery, shall present the position on the case in writing.

3. The provision of Para. 1 shall apply to the Ombudsman, with the exception of petitions concerning the matters referred to in Art. 44 Para. 1 Item 1 let. a. The Ombudsman, within 30 days of the notification delivery, may declare his/her participation in the proceedings, and in case of declaring participation – shall present his/her position on the matter in writing within 30 days.

4. The provisions of Para. 1 and 3 shall respectively apply to the Ombudsman for Children in proceedings initiated at the Ombudsman's request and in proceedings concerning a complaint related to the rights of children.

5. In justified cases, President of the Court may set another date for presenting the position.

6. The Court shall turn to other bodies or entities to take a position on the matter, within the set time-limit.

**Art. 83.** 1. If the same subject matter of control has been specified in at least two petitions, questions of law or complaints, President of the Court may order joint examination of those petitions, questions of law or complaints.

2. President of the Court shall decide for joint examination of petitions, questions of law or complaints when appointing the adjudicating panel. President of the Court may also order joint examination on the request of the adjudicating panel.

**Art. 84.** 1. If the Court's ruling may invoke results linked with financial expenditures not provided for in the Budget Act or the Act on Preliminary Budget, President of the Court shall turn to the Council of Ministers for presenting, within 2 months, of their opinion on the matter.

2. In justified cases, President of the Court may set a nother date for presenting the opinion.

3. Failure by the Council of Ministers to present their opinion shall not stay examination of the case.

**Art. 85.** 1. With respect to the compliance of the Budget Act or the Act on Preliminary Budget with the Constitution prior to their signing, the Court shall adjudicate within 2 months of filing the petition.

2. The participants of the proceedings shall present their position within the time-limit specified by President of the Court.

**Art. 86.** Chairman of the adjudicating panel shall issue orders aimed at proper and efficient preparation of the hearing or closed door session, and in particular:

- 1) subject to art. 45 Para. 3, shall appoint the first session on the matter not later than within 2 months of expiration of the time-limit for the participants of the proceedings to present their positions;
- 2) shall order delivery of proper letters to participants of the proceedings;
- 3) shall summon the participants of the proceedings to present, in writing and within the appointed time, an additional position on the matter;

- 4) shall order the presentation of documents and other materials needed to clarify the matter by the participants of the proceedings;
- 5) shall summon other bodies and entities, whose participation the chairman deems purposeful for the comprehensive clarification of the case, to participate in the proceedings.

**Art. 87.** 1. The Chairman of the adjudicating panel shall appoint the date of the hearing and notify the participants of the proceedings about that date.

2. The hearing cannot be held earlier than after 14 days from the delivery date of the notification of its date to participants of the proceedings.

3. The Court shall adjourn the hearing if there is no proof of the notification of its date having been delivered to the participants of the proceedings or if it has been incorrectly delivered or due to another important reason.

4. When adjourning the hearing, the Court may appoint a new date, about which it shall notify participants of the proceedings. The provision of Para. 2 shall not apply.

**Art. 88.** 1. The presence of the petitioner or their representative or proxy and of the complainant's proxy at the hearing shall be mandatory.

2. If a properly notified petitioner or their representative or proxy or the complainant's proxy does not appear at the hearing, the Court shall discontinue the proceedings or adjourn the hearing.

3. The absence of other properly notified participants of the proceedings at the hearing shall not stay the examination of the case.

**Art. 89.** Chairman of the adjudicating panel shall run the hearing and issue orders necessary to maintain the gravity, peace and order during the hearing, and, if necessary, apply the measures provided for in the Act of 27 July 2001 – Law on the System of Common Courts Act (Journal of Laws of 2015 Items 133, 509 and 694).

**Art. 90.** The hearing shall begin with the case being called, following which the petitioner, the questioning or accusing court and then other participants of the proceedings shall present their positions, arguments and evidence in their support and answer questions posed by the judges. Chairman of the adjudicating panel shall give the floor to each participant of the proceedings and, if necessary, to bodies and entities summoned to participate in the proceedings.

**Art. 91.** If the Court deems the case ultimately clarified, chairman of the adjudicating panel shall close the hearing.

**Art. 92.** 1. The court clerk shall prepare a record of the course of the hearing, containing:

- 1) date and place of the hearing;
- 2) first and last names of the judges of the adjudicating panel and of the court clerk;
- 3) list of participants of the proceedings, their representatives and proxies, as well as other bodies or entities summoned to participate in the proceedings;
- 4) designation of the case together with a note concerning its openness;
- 5) transcript of the course of the hearing, prepared based on a recording preserved on an electronic device.

2. The protocol shall be signed by the chairman of the adjudicating panel and the court clerk.

**Art. 93.** 1. The Court may examine a petition, question of law or complaint at a closed door hearing if:

- 1) a written position of the participants of the proceedings and other evidence gathered for the case will be a sufficient basis for issuing a ruling, or
- 2) the case concerns a legal issue that has been sufficiently clarified in earlier rulings of the Court.

2. Examination of a petition, question of law or complaint at a closed door session shall be decided by the adjudicating panel.

3. Chairman of the adjudicating panel shall notify the participants of the proceedings that the case shall be examined at a closed door session.

### **Section 7 Rulings of the Court**

**Art. 94.** The Court shall resolve a case by issuing a ruling in the form of a judgment or an order.

**Art. 95.** The Court shall issue judgments in the cases referred to in Art. 3 Paras. 1–5.

**Art. 96.** The Court shall issue orders with respect to:

- 1) establishing an obstacle to holding of the office by the President of the Republic of Poland and entrusting the Speaker of the Sejm with temporary performance of the duties of the President of the Republic of Poland;
- 2) other, where the Act says so or that do not require issuing a ruling.

**Art. 97.** 1. Court's orders ending the proceedings shall be issued after closing of the hearing or at a closed door session. They shall require substantiation.

2. Court's orders ending the proceedings on the case may be repealed or amended as a result of a change in the circumstances.

**Art. 98.** The Court shall issue a ruling after a closed door deliberation of the adjudicating panel judges, led by the chairman of the panel.

**Art. 99.** 1. A ruling of the Court's shall be passed by a majority vote.

2. A judge of the adjudicating panel who does not agree with the Court's ruling may submit a separate opinion while signing the ruling. The separate opinion may also relate to the substantiation alone.

**Art. 100.** 1. Court's ruling shall include:

- 1) indication of the adjudicating panel and the court clerk;
- 2) file reference number, date, place and procedure of issuing the decision;
- 3) indication of the entity that has initiated the proceedings at the Court and the other participants of the proceedings;
- 4) specification of the normative act or its part that the decision concerns;

- 5) presentation of the charges of the entity that has initiated the proceedings at the Court;
- 6) Court's decision;
- 7) signatures of the adjudicating panel judges;
- 8) information about submission of a separate opinion.

2. If the Court decides that a normative act or its part shall lose its binding force on a date other than the entering into force of the ruling, the date of this act or its part losing its binding force shall be specified in the ruling.

3. The provision of Para. 1 shall apply respectively to Court's rulings on matters other than those concerning examination of hierarchic compliance of legal norms.

**Art. 101.** The subject matter of Court's ruling may be a legislative activity or contents of a normative act or its part.

**Art. 102.** 1. The Court shall publicly pronounce rulings issued in cases referred to in Art. 3.

2. Public pronouncement of the ruling together with substantiation shall occur no later than within:

- 1) 3 months of closing the hearing;
- 2) 30 days of the closed door session.

2. The Court shall notify the participants of the proceedings about the date of public pronouncement of the ruling.

3. During the pronouncement of the ruling, all present in the courtroom, with exception of the adjudicating panel, shall be standing.

4. The chairman of the adjudicating panel or the reporting judge shall give the fundamental motives of the ruling's substantiation. The judge who has submitted a separate opinion referred to in Art. 99 Para. 2 may present the substantiation of his position.

**Art. 103.** 1. A copy of the ruling together with the substantiation and the separate opinions shall be delivered without delay to the participants of the proceedings.

2. President of the Court shall send a copy of copy of the ruling together with the substantiation and the separate opinions to the President of the Republic of Poland, Speaker of the Sejm and Speaker of the Senate, regardless of whether these bodies were participants of the proceedings before the Court.

**Art. 104.** 1. The Court shall decide at a closed door session to discontinue the proceedings:

- 1) as a result of withdrawal of the petition, question of law or complaint;
- 2) if issuance of a ruling is inadmissible;
- 3) if issuance of a ruling is unnecessary, in particular if the case under investigation does not include a substantial legal issue requiring resolution by the Court;
- 4) if the normative act has lost its binding power in the contested respect before issuance of a ruling by the Court;
- 5) in the case referred to in Art. 71 Para. 3.

2. If the circumstances mentioned in Para. 1 Items 1–4 are revealed during the hearing, the Court shall decide to discontinue the proceedings.

3. The Court shall not discontinue the proceedings due to the reason referred to in Para. 1 Item 4 if issuance of a ruling is necessary to protect constitutional freedoms and rights.

**Art. 105.** 1. Court's ruling shall be promulgated on the principles and following the procedure specified in the Constitution and the Act of 20 July 2000 on the promulgation of normative acts and some other legal acts (Journal of Laws of 2011 No. 197, Item 1172 and No. 232, Item 1378).

2. Pronouncement of a Court's ruling shall be ordered by President of the Court.

**Art. 106.** 1. The adjudicating panel that has issued the ruling may at any time correct, at a closed door session and by way of a ruling, inaccuracies, clerical errors or miscalculations or other clear errors in the ruling.

2. The original copy of the ruling and, on the request of the participants of the proceedings, also copies of the ruling sent to them, shall be inscribed with a note on the correction, signed by the Chairman of the adjudicating panel.

3. If the adjudicating panel indicated in Para. 1 cannot make the correction, the petition shall be examined by the same panel.

**Art. 107.** 1. On the request of a participant of the proceedings, the adjudicating panel that has issued the ruling shall resolve at a closed room hearing, by way of a ruling, any doubts concerning its contents.

2. If the petition for clarifying doubts as to the contents of a ruling cannot be examined by the adjudicating panel indicated in Para. 1, the petition shall be examined by the same panel.

**Art. 108.** 1. The Court shall issue a collection of rulings – “Orzecznictwo Trybunału Konstytucyjnego. Zbiór Urzędowy” (Rulings of the Constitutional Court. Official Collection)

2. Court's rulings together with their substantiations and separate opinions shall be published in the collection referred to in Para. 1.

3. The collection referred to in Para. 1 shall be published electronically.

4. The name “Orzecznictwo Trybunału Konstytucyjnego. Zbiór Urzędowy” (Rulings of the Constitutional Court. Official Collection) shall be protected by law.

## **Section 8**

### **Procedure of checking the compliance of the aims and activities of political parties with the Constitution**

**Art. 109.** The Court shall examine a petition concerning the compliance of the aims and activities of a political party, specified in its statute or programme, with the Constitution under the procedure provided for petitions concerning the compliance of normative acts with the Constitution.

**Art. 110.** 1. The Court shall examine a petition concerning the compliance of political party's activities with the Constitution under the procedure referred to in Art. 109.

2. The burden of proving the non-compliance of political party's activities with the Constitution shall fall on the petitioner.

3. The doubts that cannot be clarified shall be settled in favour of the political party.

4. Provisions of the Act of 6 June 1997 – Code of Penal Procedure (Journal of Laws No. 89, Item 555, as amended<sup>5)</sup>) shall appropriately apply to cross-examination of witnesses and experts during a hearing or to disclosing documents important for the settlement.

5. In order to gather and preserve the evidence concerning the compliance of political party's activities with the Constitution, the Court may, by the way of a resolution, order the Prosecutor General to conduct an investigation. The investigation scope specified in the resolution shall be binding. Provisions of the Act of 6 June 1997 – Code of Penal Procedure shall apply respectively to the investigation.

**Art. 111.** The Court shall examine a question of a court maintaining the register of political parties concerning the compliance of the political party's statute with the Constitution, in respect of the party's aims and rules of the party's operation specified in the statute, on the principles and following the procedure provided for a question of law.

**Art. 112.** 1. The Court shall determine the persons authorised to represent the political party based on the party's statute or the Act.

2. If it cannot be determined who is the person authorised to represent the party or if the latter person cannot be contacted, the Court shall deem the person actually leading the party to be the authorised person.

### **Section 9**

#### **Proceedings on resolving a competence-related dispute**

**Art. 113.** The Court shall resolve competence-related disputes if:

- 1) at least two central constitutional bodies of the state deem themselves competent to resolve the same case or have issued rulings in it;
- 2) at least two central constitutional bodies of the state deem themselves incompetent to resolve a specific case.

**Art. 114.** A petition for resolving a competence-related dispute should indicate the provision of the Constitution or an Act specifying the competence that has been breached, and the contested actions or omissions.

**Art. 115.** 1. Commencement of proceedings before the Court shall suspend the proceedings before the bodies that are involved in the competence-related dispute.

2. The Court, after familiarising itself with positions of the participants of the proceedings, may issue a ruling on a temporary settlement of the disputable matters, particularly when this is supported by an especially important public interest.

### **Section 10**

#### **Proceedings on establishing an obstacle to holding of the office by the President of the Republic of Poland**

**Art. 116.** Speaker of the Sejm, in a petition concerning establishment of an obstacle to holding of the office by the President of the Republic of Poland, shall indicate the circumstances which temporarily prevent the President of the Republic of Poland from holding the office and prevent notifying the Speaker of the Sejm about that.

**Art. 117.** 1. The Court shall examine the petition of the Speaker of the Sejm without delay, but no later than within 24 hours of its submission.



2. The Court shall examine the petition at a hearing closed to the public.

3. The participants of the proceedings shall include:

- 1) Speaker of the Sejm;
- 2) Speaker of the Senate;
- 3) President of the Supreme Court;
- 4) Prosecutor General;
- 5) Head of the Chancellery of the President of the Republic of Poland.

4. If a participant of the proceedings cannot participate in the hearing in person, they may appoint a representative.

5. A representative of: 1) Speaker of the Sejm may be a Deputy Speaker of the Sejm authorised by the Speaker; 2) the Speaker of the Senate may be a Deputy Speaker of the Senate authorised by the Speaker; 3) First President of the Supreme Court may be a President of the Supreme Court authorised by the First President; 4) Prosecutor General may be a Deputy Prosecutor General authorised by the Prosecutor; 5) the Head of the Chancellery of the President of the Republic of Poland may be a Deputy Head of the Chancellery of the President of the Republic of Poland authorised by the Head of the Chancellery.

6. Absence of a participant of the proceedings or their representative at a hearing shall not stay examination of the petition.

**Art. 118.** 1. If the circumstances referred to in Art. 116 arise during the hearing, the Court may instruct the Prosecutor General via an order to perform specific actions on a fixed date, and adjourn the hearing.

2. Adjournment of the hearing shall not exceed 24 hours.

3. The Prosecutor General shall immediately notify the Court of the results of the actions undertaken in order to enforce the ruling, referred to in Para. 1.

**Art. 119.** 1. The Court shall issue a ruling on establishing an obstacle to holding of the office by the President of the Republic of Poland and on entrusting the Speaker of the Sejm, for no longer than 3 months, with temporary performance of the duties of the President of the Republic of Poland.

2. The ruling shall become void if:

- 1) President of the Republic of Poland notifies Speaker of the Sejm and the Court of the President's ability to hold the office before the date specified in the ruling has passed;
- 2) circumstances referred to in Art. 131 Para. 2 Items 1, 2, 4 or 5 of the Constitution arise.

**Art. 120.** 1. If, after the period for which the Court has entrusted the Speaker of the Sejm with temporary performance of the duties of the President of the Republic of Poland has passed, the circumstances that have temporarily prevented the President from holding the office do not cease, the Speaker of the Sejm may again, once, file at the Court a petition concerning establishment of an obstacle to holding of the office by the President of the Republic of Poland.

2. To investigation of the petition concerning an obstacle to holding of the office by the President of the Republic of Poland filed again by the Speaker of the Sejm, provisions of Arts. 117–119 shall apply.

## **Section 11 Office of the Court**

**Art. 121.** 1. The right organizational and administrative conditions for operation of the Court shall be provided by the President of the Court and the Office of the Court subordinated to the President, hereinafter referred to as the "Office".

2. The detailed range of tasks and the structure of the Office shall be defined by its statute.

**Art. 122.** 1. The office shall be run by the Head of the Office, who shall be appointed and recalled by the General Assembly at the request of the President of the Court.

2. Remuneration of the Head of the Office shall be determined based on the Rules of Procedure on the remuneration of persons holding state managerial positions, in the respect concerning the Secretary of State.

**Art. 123.** 1. The Head of the Office shall be the superior of the Office employees, shall ensure the correct functioning of the Office and, if needed, shall submit requests with respect to its organisation.

2. The Office Head shall prepare and present to the President of the Court a plan of the Court's income and expenditures, and shall be responsible for execution of the Court's budget and, if needed, shall propose changes to its execution setup.

3. The Office Head shall be responsible for administration of the property under the Court's management.

4. The detailed range of the Office Head's tasks and the manner of performing them shall be defined by the Statute of the Office.

**Art. 124.** 1. The Office employees employed on positions directly related to the Court's jurisprudential activities and to assistance to the work of Court judges in that respect shall form the Court's legal service.

2. The list of the positions held by persons belonging to the Court's legal service, and in particular the detailed qualification requirements for holding those positions, shall be defined by the President of the Court through an order, issued at the request of the Head of the Office after consulting the General Assembly,.

3. The detailed range of tasks on the positions referred to in Para. 2 and the manner and conditions of their performance shall be defined by the Statute of the Office.

**Art. 125.** 1. Persons employed on a position referred to in Art. 124 Para. 1, may, on the principles and in the manner specified in separate provisions:

- 1) apply for an entry in the list of solicitors and legal advisors;
- 2) apply for appointment to the position of an advisor to the State Treasury Solicitors' Office;
- 3) apply for employment on the position of an advisor to the State Treasury Solicitors' Office;
- 4) apply for taking a solicitor's, legal advisor's or notary's exam.

2. A person employed on a position referred to in Art. 124 Para. 1, after working on this position for 5 years, may take a judiciary exam.

3. An application request for admission to a judiciary exam, together with a positive opinion of the President of the Court, shall be submitted by the person referred to in Para. 2 to

the Director of the National School of Judiciary and Public Prosecution no later than three months before the exam date, together with paying the required fee.

4. If the person referred to in Para. 2 submits a written declaration on withdrawal from participation in the exam no later than 14 days before the date of the judiciary exam, the Director of the National School of Judiciary and Public Prosecution shall return 2/3rds of the fee paid.

**Art. 126.** 1. In matters not regulated in the Act, provisions of the Act of 16 September 1982 on employees of state offices shall be applied to the Office employees.

2. The Head of the Office shall exercise the competences of the Office manager following from provisions of the law.

**Art. 127.** No weapons or ammunition, and neither explosives nor other dangerous substances, may be carried onto the premises under the Court's management or into the Court's buildings. The foregoing shall not apply to persons fulfilling official duties requiring possession of weapons in those places.

## **Section 12** **Changes to existing legislation**

**Art. 128.** In the Act of 26 May 1982 – Law on the Bar (Journal of Laws of 2015 Item 615), in Art. 66 in Para. 1, Item 5:

1) letter c shall read:

“c) have been employed in offices of public authorities or state organizational units, and carried out activities requiring legal knowledge and directly related to the preparation of bills, ordinances or local legislation, or”;

2) letter d shall be added, in the wording:

“d) have been employed in the Constitutional Court or in an international judicial body, in particular in the European Union's Court of Justice or the European Court of Human Rights, and carried out activities equivalent to the activities of a judge's assistant.”

**Art. 129.** In the Act of 6 July 1982 on legal advisors (Journal of Laws of 2015 Item 507) in Art. 25 in Para., Item 5:

1) letter c shall read:

“c) have been employed in offices of public authorities or state organizational units and carried out activities requiring legal knowledge and directly related to the preparation of bills, ordinances or local legislation, or”;

2) letter d shall be added, in the wording:

“d) have been employed in the Constitutional Court or in an international judicial body, in particular in the European Union's Court of Justice or the European Court of Human Rights, and carried out activities equivalent to the activities of a judge's assistant.”

**Art. 130.** In the Act of 15 July 1987 on the Ombudsman (Journal of Laws of 2014 Item 1648) in Art. 16 in Para. 2, Item 3 shall read:

“3) shall declare participation in the proceedings at the Constitutional Court and participate in these proceedings;”

**Art. 131.** In the Act of 8 August 1996 on the Council of Ministers (Journal of Laws of 2012 Item 392) in Art. 14c after Item 3, Item 3a shall be added, which shall read:

“3a) ensuring the participation of the Council of Ministers and the President of the Council of Ministers in the proceedings at the Constitutional Court;”.

**Art. 132.** In the Act of 27 June 1997 on political parties (Journal of Laws of 2011 No. 155, Item 924) the following changes shall be introduced:

1) in Art. 14:

a) Para. 1 shall read:

“1. Should doubts arise as to the compliance with the Constitution of the aims and principles of the political party’s activities specified in the statute according to Art. 9 Para. 1, the Court shall adjourn the proceedings referred to in Art. 12, and shall issue a question to the Constitutional Court concerning the compliance of the statute with the Constitution.”

b) Para. 3 shall read:

“3. If the Constitutional Court issues a ruling stating non-compliance of the charter or its part with the Constitution, the Court shall refuse to enter the party into the register.”;

2) Art. 21. Should doubts arise as to the compliance of the goals and rules of the political party’s operation defined in the statute with the Constitution, the Court shall adjourn the proceedings referred to in Art. 12 Para. 2, and shall issue a question to the Constitutional Court concerning the compliance of the changes to the statute with the Constitution.

2. If the Constitutional Court issues a ruling that the changes to the statute are not compliant with the Constitution, the Court shall refuse to enter these changes into the register of political parties.

3. Provisions of art. 14 Para. 2 and 4 shall apply respectively.”;

3) Section 5 shall read:

“Section 5

Proceedings on the compliance of the aims or activities of political parties with the Constitution

Art. 42. The Constitutional Court shall be competent for matters concerning the compliance of aims and activities of political parties with the Constitution,.

Art. 43. The procedure for matters referred to in Art. 42 shall be defined by the Act of 25 June 2015 on the Constitutional Court (Journal of Laws Item 1064).

Art. 44. If the Constitutional Court issues a ruling on non-compliance of the aims or activities of a political party with the Constitution, the Court shall immediately issue an order on removing the political party from the register.”

**Art. 133.** In the Act of 8 July 2005 on the State Treasury Solicitors’ Office (Journal of Laws of 2013 Items 1150 and 1247), the following changes shall be introduced:

1) in Art. 4, Para. 3 shall read:

“3. The Council of Ministers may appoint the Solicitors’ Office to represent the Council of Ministers or a minister in the proceedings at the Constitutional Court in matters concerning normative acts related to the State Treasury.”;

- 2) in Art. 29 in Para. 2:
  - a) Item 2 shall read:
    - “2) has worked on a position related to legislation, but not lower than a legislator or legislation specialist, in a state government authority office for no less than five years, or”,
  - b) Item 3 shall be added, which shall read:
    - “3) has worked on a position directly related to jurisprudential activities of the Court and assistance in the work of Court judges in this respect for no less than 5 years.”

### **Section 13 Transitional and adjustment provisions**

**Art. 134.** In cases initiated and not completed before coming into force of the Act, in the proceedings at the Court:

- 1) with respect to the preliminary investigation, the provisions existing until that time shall be applied;
- 2) if the Court has adjourned or interrupted the hearing, or has set the date of the hearing or for publishing the ruling which falls after entry into force of the Act, the provisions existing until that time shall be applied;
- 3) if there are grounds for discontinuing the proceedings, the provisions existing until that time shall be applied;
- 4) the provisions of Art. 88 Para. 1 shall not apply to complaints referred for investigation by the proper ruling panel.

**Art. 135.** 1. The Council of Ministers shall act as the participant referred to in Art. 56 Item 6 in proceedings at the Court launched after expiration of 2 months from the day of the Act's entry into force.

2. In proceedings before the Court initiated before the date specified in Para. 1, the Council of Ministers may act as the participant referred to in Art. 56 Item 6, if it declares its participation in the proceedings.

**Art. 136.** The provision of Art. 18 Item 2 shall apply to Court judges elected to this position after the day of the Act's entry into force.

**Art. 137.** In the case of Court judges whose term expires in 2015, the time for submitting the petition referred to in Art. 19 Para. 2, shall be 30 days after the day of the Act's entry into force.

### **Section 14 Final provisions**

**Art. 138.** The Act of 1 August 1997 on the Constitutional Court (Journal of Laws No. 102, Item 643, of 2000 No. 48, Item 552 and No. 53, Item 638, of 2001 No. 98, Item 1070, of 2005 No. 169, Item 1417, of 2009 No. 56, Item 459 and No. 178, Item 1375, of 2010 No. 182, Item 1228 and No. 197, Item 1307 and of 2011 No. 112, Item 654) shall become null and void.

**Art. 139.** The Act shall come into force after expiration of 30 days from the

pronouncement day, with the exception of Art. 108 Para. 3, which shall enter into force on 1 January 2016

President of the Republic of Poland: B. Komorowski

Warsaw, 20 November 2015

Item 1928

**Act**

**of 19 November 2015**

**amending the Constitutional Court Act**

**Article 1.** The Act of 25 June 2015 on the Constitutional Court (Journal of Laws – Dz.U. item 1064) shall be amended as follows:

1) in Article 12, paras. 1 and 2 shall read as follows:

„1. The President of the Court shall be appointed by the President of the Republic of Poland from among at least three candidates presented by the General Assembly, for a period of three years. One may be appointed President of the Court twice.

2. The candidates for the office of the President of the Court shall be elected by the General Assembly in the last month of the term of office of the President of the Court from among the judges of the Court who received successively the highest number of votes in the voting. In case of vacancy in the office of the President of the Court, the candidates shall be elected within 21 days.”;

2) Article 18 shall read as follows:

“Article 18. A person who possesses the necessary qualifications to hold the office of a judge of the Supreme Court or the Supreme Administrative Court may be a judge of the Court.”;

3) in Article 19, para. 2 shall read as follows:

“2. A motion submitting a candidate for a judge of the Court shall be submitted to the Speaker of the Sejm 30 days prior to the end of the term in office of the judge of the Court.”;

4) in Article 21:

a) para. 1 shall read as follows:

„1. The person elected to the office of the judge of the Court shall take the following oath in the presence of the President of the Republic of Poland, within 30 days from the day of election:

“I do solemnly swear that in discharging the duties which have been vested in me as a judge of the Constitutional Court, I shall faithfully serve the Polish Nation, safeguard the Constitution and perform all such duties impartially, according to my conscience, and with the utmost diligence, while safeguarding the dignity of the office held”.

The oath may be taken by adding the following sentence: “So help me God.”.

b) after para. 1, paragraph 1a shall be added with the following wording:

„1a. Taking the oath shall commence the course of the term of office of the judge of the Court.”;

5) Article 136 and Article 137 shall be repealed;

6) after Article 137, Article 137a shall be added with the following wording:

„Art. 137a. In the case of judges of the Court whose term of office expires in 2015, the deadline for the submission of the application referred to in Article 19 para.2 shall be seven days from the day this provision comes into force.”.

**Article 2.** The term of office of the President and Vice President of the Constitutional Court who have held their offices so far shall expire after three months from the day the Act comes into force.

**Article 3.** The Act shall come into force after 14 days from the day it is announced.

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



Warsaw, 28 December 2015

Item 2217

**ACT**

of 22 December 2015

**amending the Constitutional Court Act**

**Article 1.** The Act of 25 June 2015 on the Constitutional Court (Journal of Laws item 1064, as amended<sup>1</sup>) shall be amended as follows:

1) Article 1 shall read as follows:

“Article 1. The Constitutional Court, hereinafter referred to as the “Court”, shall be a judicial authority appointed to discharge of the responsibilities specified in the Constitution.”;

2) in Article 8, item 4 shall read as follows:

“4) preparing a motion to the Sejm to declare the expiry of the mandate of a judge of the Court in cases specified in Article 36 para.1.”;

3) in Article 10, para.1 shall read as follows:

„1. The General Assembly shall adopt resolutions by a majority of two-thirds of votes, in the presence of at least 13 judges of the Court, including the President or the Vice President, unless the Act stipulates otherwise.”;

4) in Article 12:

a) after para. 2, para. 2a shall be added with the following wording:

„2a. A candidate for the office of the President of the Court may be submitted by at least three judges of the Court. A judge of the Court may only submit one candidate.”,

b) after para. 3, paras. 3a–3c shall be added with the following wording:

„3a. The voting to select the President of the Court from among the candidates may not take place earlier than after three days from the day when the candidates were submitted.

3b. On the card prepared for electing the candidate for the office President of the Court, the names and surnames of candidates shall be listed in alphabetical order.

3c. A judge of the Court may only vote for one candidate for the office of the President of the Court.”,

c) paragraph 5 shall read as follows:

„5. The provisions of paragraphs 1–2a and 3a–4 shall apply to the Vice President of the Court accordingly.”;

5) after Article 28, Article 28a shall be added with the following wording:

---

1. Amendments to the above-mentioned Act were announced in the Journal of Laws of 2015, items 1928, 2129, and 2147.

„Article 28a. The disciplinary proceedings may also be initiated upon the request of the President of the Republic of Poland or the Minister of Justice within 21 days from the date of receipt of the request, unless the President of the Court considers the request unfounded. The decision to refuse to initiate disciplinary proceedings shall be delivered to the requesting party along with justification within seven days from the day the decision is taken.”;

6) in Article 31, item 3 shall be repealed;

7) after Article 31, Article 31a shall be added with the following wording:

„Article 31a. 1. In particularly gross cases, the General Assembly shall apply to the Sejm to depose the judge of the Court.

2. The General Assembly may adopt a resolution or submit a motion in the matter stipulated in paragraph 1 also upon request from the President of the Republic of Poland or Minister of Justice, within 21 days from the date of receipt of the request.

3. The resolution on the refusal to submit the motion stipulated in paragraph 1, along with justification, shall be delivered to the requesting party stipulated in paragraph 2 within 14 days from the day the resolution has been adopted.”;

8) Article 36 shall read as follows:

„Article 36. 1. The mandate of the judge of the Court shall expire prior to the expiry of their term of office in the event that:

- 1) the judge of the Court has died;
- 2) the judge of the Court has renounced the office;
- 3) the judge of the Court has been convicted by a final judgement for intentional crime prosecuted by public indictment or for intentional fiscal crime;
- 4) the judge has been deposed from the office of the judge of the Court by the Sejm upon request from the General Assembly.

2. The motion to the Sejm to declare the expiry of the mandate of the judge of the Court in cases referred to in para.1 shall be submitted by the General Assembly after a relevant investigation has been conducted.”;

9) in Article 44, paras. 1–3 shall read as follows:

„1. The Court shall adjudicate:

- 1) sitting in full bench, unless the Act stipulates otherwise;
- 2) in a bench of seven judges of the Court – in cases:
  - a) initiated by a Constitutional complaint or a question of law,
  - b) concerning the conformity of acts with international agreements whose ratification required prior consent expressed by means of an act;
- 3) in a bench of three judges of the Court – in cases:
  - a) concerning the further consideration of or the refusal to further consider a Constitutional complaint or an application of the entity referred to in Article 191 para.1 items 3–5 of the Constitution,
  - b) concerning the exclusion of a judge.

2. If the case stipulated in para. 1 items 2-3 is of a particularly complicated nature or is particularly significant, it shall be possible to pass it over for consideration in full bench. The passing over shall be decided upon by the President of the Court, also upon request from the adjudicating panel.

3. Adjudicating in full bench shall require the participation of at least 13 judges of the Court.”;

- 10) in Article 80, the earlier wording shall be designated as para. 1, and para. 2 shall be added with the following wording:

“2. The dates for hearings or proceedings in camera where applications are considered, shall be established by order in which the cases are submitted to the Court.”;

- 11) in Article 81:

- a) after para. 1, paragraph 1a shall be added with the following wording:

„1a. The Court shall consider the application, question of law, or complaint at a hearing when the application for it to be considered at a hearing has been included in the application, question of law, or complaint.”,

- b) paragraph 2 shall read as follows:

“2. The consideration of a case at a hearing, in the event that the application referred to in para. 1a has not been submitted, shall be decided upon by the adjudicating panel.”;

- 12) in Article 87:

- a) para. 2 shall read as follows:

“2. The hearing may not take place earlier than after three months from the day the notification on the date of the hearing has been delivered to the participants of the proceedings, and for cases adjudicated in full bench – after six months.”,

- b) after para. 2, paragraph 2a shall be added with the following wording:

„2a. The President of the Court may shorten by half the period of time indicated in para. 2 as appropriate in cases:

- 1) initiated upon the request of the President of the Republic of Poland;
- 2) where the complaint or question of law concern the direct infringement of the freedoms, rights and responsibilities included in Chapter II of the Constitution;
- 3) where control concerns the provisions of the Standing Orders of the Sejm or Senate.”;

- 13) in Article 93, in para. 1, the introduction to the list shall read as follows:

„Subject to Article 81 para. 2, the Court may consider an application, a question of law, or a complaint, in camera, if:”;

- 14) in Article 99, para. 1 shall read as follows:

„1. The judgements of the Court passed in full bench shall be passed by a majority of two-thirds of the votes.”;

- 15) chapter 10 shall be repealed;
- 16) Article 16, Article 17 para.1, Article 17 para.2 second sentence, Article 19, Article 20, Article 28 para.2, Article 30, Article 45 para.2, Article 70 para.2, Article 82 para.5, Article 112 para.2, Article 125 paras. 2–4, and Article 137a shall be repealed.

**Article 2.** 1. In cases where, until the date of entry of this Act into force, the President of the Court has not notified the participants of the proceedings that the application, question of law or complaint have been passed for consideration by the adjudicating panel, the proceedings shall be conducted pursuant to the principles stipulated in this Act. However, in each case, the adjudicating panel shall be established pursuant to the provisions of this Act.

2. In proceedings initiated but not completed prior to the entry of the Act into force, the hearing may not take place earlier than after 45 days from the day when the notification of its date has been delivered to the participants of the proceedings, and in a case adjudicated in full bench – after three months; in both cases, however, no later than two years after this Act comes into force.

3. The dates of hearings where applications are heard in proceedings initiated but not completed prior to the entry of the Act into force, shall be established by the order in which the Court receives the cases.

4. The provisions of paras. 2 and 3 shall apply to a sitting in camera where the adjudication to close the proceedings in a given case is passed.

**Article 3.** 1. Persons employed in the position referred to in Article 124 para.1 of the Act amended in Article 1 who until the date of the entry of this Act into force have worked at that position for at least five years, may take the judicial examination within 36 months from the date of entry of this Act into force.

2. The persons referred to in paragraph 1 shall be subject to the provisions of Article 125 paras. 3–4 of the Act amended in Article 1, as worded until now.

**Article 4.** In cases where, until the date of entry of this Act into force, the adjudicating panel has not decided to consider the application, question of law, or constitutional complaint in camera, upon request of the participant of the proceedings, shall be considered at a hearing.

**Article 5.** The Act shall come into force on the day it is announced.

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