Resolution[1]

dated 20 October 1993 (W. 6/93)

In the matter of the interpretation of article 7, section 2 of the Constitutional Tribunal Act dated 29 April 1985 (Journal of Laws,1991, Number 109, Item 470; and 1993, Number 47, Item ? 13).

The Constitutional Tribunal sitting with the full bench composed

of the Chairman and Vice-President of the Constitutional Tribunal, Leonard Łukaszuk,

Judges: Czesław Bakalarski, Tomasz Dybowski, Kazimierz Działocha (Reporting Judge), Henryk Groszyk, Maria Łabor-Soroka, Wojciech Łączkowski, Ferdynand Rymarz, Janina Zakrzewska and Andrzej Zoll

After reviewing, at a sitting on 20 October 1993 under the course of action embodied in article 13, sub-sections 1 and 2 of the Constitutional Tribunal Act dated 29 April 1985, the petitions filed by the Commissioner for Citizens' Rights dated 15 July 1993 and 4 October 1993 to determine the universally binding interpretation of article 7, section 2 of the Constitutional Tribunal Act dated 29 April 1985, namely:1) whether in light of article 33a, section 2 of the Constitution of the Republic of Poland still in force pursuant to article 77 of the Constitutional Act dated 17 October 1992 on the Mutual Relationships between the Legislative and the Executive Branches of the Republic of Poland and the Local Self government Act (Journal of Laws, Number 84, Item 426) and article 7, sections 2 to 4 of the Constitutional Tribunal Act dated 29 April 1985 it is permissible for the Sejm of the Republic of Poland to adopt a resolution overturning a decision of the Constitutional Tribunal after the elapse of six months after it is properly presented to the Sejm by the President of the Constitutional Tribunal, 2) whether in the situation when the Sejm of the Republic of Poland acknowledges decisions of the Constitutional Tribunal to be justified, should the challenged legal norm be amended without delay (i.e. concurrently), or whether these amendments to the challenged legal act can be effected by the Sejm of the Republic of Poland by an unspecified deadline, 3) whether and what binding force does a decision of the Constitutional Tribunal have when it has been properly presented to the Sejm by the President of the Constitutional Tribunal and which has not been reviewed by the Sejm within the six month deadline after this decision was presented by the President of the Constitutional Tribunal despite the stipulations of article 7, section 2 of the Constitutional Tribunal Act, 4) whether, in the event of the dissolution of the Sejm and the Senate pursuant to article 66, section 5 of the Constitutional Act dated 17 October 1992 after a decision of the Constitutional Tribunal has been presented to the Sejm of the Republic of Poland, the six month deadline mentioned in article 7, section 2 of the Constitutional Tribunal Act: a) continues to run, b) is suspended for the period from the date of dissolution of the Sejm and Senate until the commencement of the term of office of the newly elected chambers, c) is discontinued on the date of dissolution of the Sejm and Senate and begins anew from the date of commencement of the term of office of the newly elected chambers,

held

l. The Sejm is duty-bound to review a decision of the Constitutional Tribunal on a statute's nonconformity with the Constitution no later than within a period of six months from the day when the decision is presented to the Sejm by the President of the Constitutional Tribunal.

[1] The next of the substantiation – Journal of Laws, 1993, Number 103. Item 491.

2. In the event that a decision of the Constitutional Tribunal is deemed to be justified, the Sejm should effect the relevant amendments in the statute covered by the decision or repeal it in part or in full by the deadline prescribed in article 7, section 2 of the Constitutional Tribunal Act.

3. A decision of the Constitutional Tribunal on a statute's nonconformity with the Constitution which is not reviewed by the Sejm within six months from the day when the decision is presented to the Sejm by the President of the Constitutional Tribunal has (retains) its binding force and causes the statute to be repealed on the date when the President of the Constitutional Tribunal's proclamation about the act's forfeiture of binding force is published in the Journal of Laws.

4. If, after the Constitutional Tribunal's decision on a statute's nonconformity with the Constitution is presented to the Sejm, the Sejm and Senate, in the instances envisaged by the provisions of the Constitutional Act dated 17 October 1992 on the Mutual Relationships between the Legislative and the Executive Branches of the Republic of Poland and on Local Self government, are dissolved, the six month period mentioned in article 7, section 2 of the Constitutional Tribunal Act dated 29 April 1985 shall be suspended for the period from the date of the dissolution of the Sejm and Senate to the date of commencement of the new term of office of the Sejm and Senate.

Reasoning

(...)

II

(...)

1. Article 33a, section 2 of the Constitution of the Republic of Poland, stipulating that the Constitutional Tribunal's decisions on the nonconformity of statutes with the Constitution are subject to review by the Sejm, was a system consequence of article 20, sections 1 to 3 of the Constitution, formally instituting the fullness of the authority and the superiority of the Sejm as an expression of the principle of unity of state authority. These provisions were in force until the Constitutional Act dated 17 October 1992 on the Mutual Relationships between the Legislative and Executive Authorities of the Republic of Poland and on Local Selfgovernment came into force.

The foregoing basis in article 33a, section 2 of the Constitution, and thus the manifestation of the provisions of the Constitutional Tribunal Act was modified substantially after the institution of the new grounds for the system of the Republic of Poland. Article 33a, section 2 of the Constitution underwent the first system deconstruction after the current article 1 of the Constitution of the Republic of Poland came into force which institutes the principle of the democratic rule of law. This principle commands that the Constitution be recognized as the highest legal power in the entire system of law and that the process of interpretation be guided by it *inter alia* the provisions which concern investigations into the conformity of the law with the Constitution.

The second change of importance for the current meaning of article 33a, section 2 of the Constitution of the Republic of Poland was the repeal of the binding force of article 20 by the aforementioned Constitutional Act dated 17 October 1992. Its establishment of the separation of powers (article 1) as the basis for the mutual relationships of the state's authorities ultimately stripped article 33a, section 2 of its basic constitutional and doctrinal foundation. The separation of powers demands that the Constitutional Tribunal be recognized in all cases as independent in relationship to the Sejm, the body with jurisdiction over the review of the

law and curtailing the Sejm's intervention in an area under the jurisdiction of the Constitutional Tribunal to those instances and forms explicitly defined in the law. They cannot be interpreted more broadly.

2. Notwithstanding the foregoing, article 33a, section 2 of the Constitution of the Republic of Poland is a binding provision with constitutional rank and is also binding upon the Constitutional Tribunal. As something left in the system of constitutional norms by article 77 of the Constitutional Act dated 17 October 1992 it must nevertheless be interpreted in keeping with the supreme principles of the political system of the Republic of Poland founded on acknowledging the existence of an internal hierarchy of norms in the Constitution, the fundamental premise for interpreting the provisions of the Constitution in the practice of the constitutional courts. This refers especially to the provisions of Chapter 2 of the Constitutional Tribunal Act defined as executive provisions in relationship to article 33a, section 2 of the Constitution. The Supreme Court omits this principle in the resolution dated 2 March 1993 (Ref. no. I. PZP 3/93) to which the Prosecutor General referred in his/her position.

1) The institution in article 33a, section 2 of the Constitution of the Republic of Poland of the requirement for the Sejm to review the decisions of the Constitutional Tribunal on the nonconformity of statutes with the Constitution does not signify that they do not have legal binding force until they are reviewed (and accepted) by the Sejm, and this includes – as discussed below – situations when they are not reviewed by the Sejm by the prescribed deadline. In compliance with article 33a, section 1 of the Constitution of the Republic of Poland a decision of the Constitutional Tribunal is the basis for asserting a statute's conformity or nonconformity with the Constitution („The Constitutional Tribunal decides about the conformity of statutes with the Constitution...”). The binding decision and not its projection is subject to review by the Sejm (article 33a, section 2 of the Constitution). In compliance with article 7, section 1 of the Constitutional Tribunal Act the President of the Constitutional Tribunal submits to the Sejm „the decision asserting the nonconformity of a legislative act with the Constitution.” For this reason in keeping with the explicit reading of the Constitutional Tribunal Act these decisions are final (article 30, section 1 of the Constitutional Tribunal Act), while decisions asserting the nonconformity of statutes with the Constitution may not – in contrast to decisions on other acts – be challenged by reviewing the case (article 30, sections 2-3 of the Constitutional Tribunal Act).

The review of a decision and its acceptance or rejection by the Sejm has legal significance in regards to the decision's legal consequences in binding law. To date the consequences of a decision asserting a statute's nonconformity with the Constitution have been subject to a legal condition *(conditio iuris)* and in this sense they are dependent upon the Sejm's resolution, if – as discussed below – the resolution is adopted by the deadline prescribed by the statute.

2) Article 33a, section 2 of the Constitution signifies the imposition upon the Sejm of a specified duty in the form of the Sejm „reviewing” a decision of the Constitutional Tribunal. This duty is constitutional in nature and is supposed to be carried out in the time frame and according to the principles prescribed by the statute as the science of law has agreeably emphasized from the outset (see e.g. Z. Czeszejko-Sochacki, *Moc wiążąca orzeczeri Trybunału Konstytucyjnego,* [The Binding Force of Decisions of the Constitutional Tribunal], PiP 1986, Number 6, p. 33; A. Kubiak, *Niektóre problemy ustawy o Trybunale Konstytucyjnym, „Zeszyty Naukowe Wydziału Prawa i Administracji U. Gdańskiego”, Prawo,* [Some Problems with the Constitutional Tribunal Act], „Scientific Notebooks of the Faculty of Law and Administration at the University of Gdańsk,” Law, Number 14, p. 15). The Constitution does not define outright what the idea of the Sejm „reviewing” a decision of the

Constitutional Tribunal is grounded upon. However, the comparison of this formula with the contents of article 33a, section 3 sentence 2 of the Constitution of the Republic of Poland, which resolved that the Constitutional Tribunal shall apply the means necessary to eradicate nonconformity between lower ranking normative acts or an act with the Constitution or legislative acts, shows that the Sejm in reviewing a decision of the Constitutional Tribunal asserting a statute's nonconformity with the Constitution investigates not just the legal and constitutional grounds of the decision by which the Constitutional Tribunal was guided. It should also decide whether it concurs with the decision of the Constitutional Tribunal or not (*a contrario* to the formula in article 33a, section 3 of the Constitution and of the decision of the Constitutional Tribunal as mentioned in this provision: „are binding"), and if it is acknowledged as being justified – it should undertake the concrete steps required to remove the statute's nonconformity with the Constitution. For the contents of the provisions of the Constitution do not indicate that the Sejm could restrict itself to reviewing the decision in the sense that it would only investigate its constitutional underpinnings without making a decision about the decision's legal consequences for binding law. In turn, one should derive the conclusion that the Sejm is not permitted to restrict itself in such a manner from the system and functional interpretation of the Constitution of the Republic of Poland. Even an explicit reading of article 7, section 3 of the Constitutional Tribunal Act issued in exercising the Constitution shows that the Sejm when acknowledging a decision to be justified is also supposed to effect the relevant amendments to the binding legislation in keeping with the decision it has accepted.

For it is said in this provision that „if the Sejm deems the decision to be justified, it shall effect the relevant amendments in the statute covered by the decision or it shall repeal it in part or in full." The grounds for issuing the decision and the adoption of the resolution accepting it do not have to occur, however – as the applicant wishes – concurrently with the resolution in the matter of the amendments to the statute covered by the decision or in the matter of repealing it in part or in full (execution of the decision). It is only important for both of the Sejm's resolutions to be adopted within the peremptory six-month deadline mentioned in article 7, section 2 of the Constitutional Tribunal Act.

3) The absence of a specific deadline in article 33a, section 2 of the Constitution by which the Sejm is supposed to perform its duty of reviewing the decision on a statute's nonconformity with the Constitution does not imply that the Sejm may perform it by any arbitrary deadline that is unrestricted by the elapse of a specific period. For this would imply not only the factual frustration of the decisions of the Constitutional Tribunal but also of the purpose for establishing the Constitutional Tribunal as a body to investigate the conformity of the law with the Constitution. The Sejm's duty to review a decision of the Constitutional Tribunal in the proper time frame therefore has the significance of a constitutional norm which is the consequence of other norms (principles) with constitutional rank, in particular the principles of constitutionalism as the primary factor in a democratic State ruled by law and the principles of separation of powers.

The deadline for performing the duty of reviewing the decisions of the Constitutional Tribunal asserting a statute's nonconformity with the Constitution was established to execute the foregoing norm of the Republic of Poland's Constitution in the Constitutional Tribunal Act (in the Sejm's bylaws when speaking of the procedure whereby the Sejm reviews decisions). According to the original reading of the Constitutional Tribunal Act the deadline for the Sejm to review a decision was determined by the moment of the Sejm's session, namely, in such a way that it was supposed to take place „at a plenary sitting during the current or the next session" of the Sejm after the issued decision was first presented to the Sejm by the President of the Constitutional Tribunal (article 6, section 1 to 2). After

abolishing the Sejm's session system of work and in conformance with the current reading of the Constitutional Tribunal Act (article 7, section 2) the deadline mentioned was defined concretely in time. Namely, it is a six-month deadline counting from when the decision is presented to the Sejm by the President of the Constitutional Tribunal. The statute explicitly accepts that the Sejm is supposed to review the decision of the Constitutional Tribunal „no later „ than by the deadline stated above.

4) The Sejm does not have the right to exceed the deadline for reviewing a decision of the Constitutional Tribunal specified in article 7, section 2 of the Act. For it is not a term of order as the Prosecutor General claims in his/her stance on the matter, rather it is a deadline of preclusion. The linguistic interpretation of the provision ordering the Sejm to review the decision „no later" then the deadline prescribed by the Constitutional Tribunal Act supports this viewpoint, and thus it must do so without the right to exceed it or to restitute it at the Sejm's will. In this issue the Constitutional Tribunal concurred with the arguments of the Commissioner for Citizens' Rights. It also refers to previous decisions in the matter of interpreting this type of formulation in other statutory provisions.

As written previously, the deadline for reviewing a decision of the Constitutional Tribunal prescribed by the statute refers not only to considering the legal (constitutional) grounds of the decision. It also concerns the Sejm adopting decisions strictly related thereto on whether it concurs with the decision of the Constitutional Tribunal or not. In the event that the decision is deemed to be justified the Sejm is supposed to effect the relevant amendments to the act covered by the decision by the deadline or to repeal it to the extent to which it is derived from the decision.

The contents of article 33a, section 2 of the Constitution of the Republic of Poland, which do not define the concrete deadline by which the Sejm is supposed to discharge the duty of reviewing the decision on a statute's nonconformity with the Constitution, do not hinder such an interpretation of article 7, section 2 of the Constitutional Tribunal Act – as has already been indicated. The statement of this deadline in article 7, section 2 of the Constitutional Tribunal Act and its interpretation accepted herein are therefore not an impermissible curtailment of the Sejm's freedom which is supposed to stem from a provision of the Constitution of the Republic of Poland. Another position, i.e. awarding the Sejm the authority to review decisions of the Constitutional Tribunal at any time whatsoever would imply the reinstatement of the no longer binding principle of the Sejm's complete authority and superiority. It would allow the Sejm – to which the applicant draws attention and which practice has confirmed – to postpone for an undefined period the Sejm's decisions on executing these decisions. It would therefore permit statutes contravening the Constitution to be binding against a decision of the Constitutional Tribunal even if the Sejm were to acknowledge a given decision as justified, thereby' actually attenuating the sense of investigating the constitutionality of the law and the principle of constitutionalism.

Notwithstanding the foregoing constitutional concerns centered on the interpretation of article 7, section 2 of the Constitutional Tribunal Act, the inclusion in the act of a finite deadline for the Sejm to review a decision of the Constitutional Tribunal in a way that – as written – does not leave any doubts about its peremptory nature is a legal norm in the rank of an act which is binding upon the Sejm until it is changed by legislative course of action. The observance of this norm by the Sejm constitutes an element of the constitutional duty for every state body to abide by the law of the Republic of Poland (article 3, section 1 of the Constitution), without excluding the Sejm.

3. The foregoing is the direct source of the negative response given by the Constitutional Tribunal to the first question in the petition filed by the Commissioner for

Citizens' Rights; namely, whether it is permissible for the Sejm to adopt a resolution overturning a decision of the Constitutional Tribunal on a statute's nonconformity with the Constitution after the elapse of six months from the day when the said decision is properly presented to the Sejm by the President of the Constitutional Tribunal.

The foregoing, in particular the findings in section 2.2., also provides the source for the response to the applicant's second question.

The issue of the binding force of a decision on a statute's nonconformity with the Constitution, which is not reviewed by the Sejm by the statutory deadline of 6 months after the decision is presented to the Sejm by the Constitutional Tribunal, covered by the third question in the petition filed by the Commissioner for Citizens' Rights, is strictly linked to the response to the questions posed above by the Commissioner for Citizens' Rights. The arguments portrayed here show that the Sejm's failure to discharge the duty to review such a decision by the six month deadline imposed upon the Sejm, or – after deeming it to be justified – the failure to effect the relevant amendments to the act covered therein which, as written, lies within the range of the constitutional concept of „review" – does not exert an influence on the binding force of the decision. It has binding force until the time it is reviewed by the Sejm; it does not forfeit its binding force if the Sejm fails to exercise its power to review and to overturn a decision by the statutory deadline. The failure to review a decision by the statutory deadline, or the failure to effect the relevant amendments to the act covered by the decision by this deadline or the failure to repeal the act even though the decision has been deemed to be justified, causes the legal condition for the Sejm to review the decision to become ineffective from the point of view of the legal consequences of the Constitutional Tribunal's decision for the provisions of the act covered by the decision.

Responding therefore to the third question posed in the petition filed by the Commissioner for Citizens' Rights one should accept – despite the absence of an explicit provision in the binding provisions of law to this degree – that a decision of the Constitutional Tribunal on a statute's nonconformity with the Constitution, if the decision is not reviewed by the Sejm within a six month deadline from the day when the decision is presented to the Sejm by the President of the Constitutional Tribunal, shall retain its binding force and shall give rise to legal consequences in keeping with the contents thereof. The source of this force is the Constitutional Tribunal's constitutional power to rule on the conformity of the law with the Constitution whose ultimate basis is lodged in the highest legal power of the Constitution.

The opposite conclusion would have to imply the ineffectiveness of decisions made by the Constitutional Tribunal mentioned above if the Sejm were not to review them by the. statutory deadline; thus it would imply the recognition that the statute, with respect to which the Constitutional Tribunal issued a decision of nonconformity with the Constitution, is still binding. This would be a conclusion – which should be emphasized once again – that could not be reconciled with the principle of constitutionalism as the fundamental premise of the rule of law; it would imply the factual rejection of article 1 of the Constitutional Act dated 17 October 1992 instituting the separation of powers, and as a result it would imply the squandering of the essence of a constitutional judiciary.

A comparison of the procedure for the Sejm to overturn a decision of the Constitutional Tribunal with the failure to review it by the statutory deadline also supports the view accepted here. The Sejm, in order to overturn a decision when acknowledging that the statute covered by the decision conforms with the Constitution, must do so by way of a resolution adopted by at least a two-thirds majority in the presence of at least one-half of the total number of the deputies (article 7, section 4 of the Constitutional Tribunal Act). In the meantime, one would have to ascribe consequences essentially equivalent to the consequences brought about by the

Sejm overturning a decision if the Sejm were simply not to review a decision (in the sense of considering its constitutional grounds) by the deadline, or if it were to review the decision by the deadline but were just not to effect the relevant amendments in the statute covered by the contents of the decision or not to repeal the statute. That which results from a conscious decision to overturn a decision in the qualified course of actions proper for amending the Constitution would be in another circumstance the effect of the Sejm just desisting from and ceasing the action commanded – incidentally – by the Constitution of the Republic of Poland.
4. The legal consequence of not reviewing a decision of the Constitutional Tribunal on a statute's nonconformity with the Constitution by the statutory deadline of 6 months from the day when the decision is presented to the Sejm or of the Sejm not undertaking actions to execute the decision which it deemed to be justified, specified in article 7, section 3 of the Constitutional Tribunal Act, is the loss of the binding force of the act (the provision thereof) covered by the decision.

The certainty of law and the security of legal transactions demands that the forfeiture of a statute's binding force be announced. In the Constitutional Tribunal Act there is no provision regulating the course for publishing the forfeiture of a statute's binding force in the situation mentioned herein. For this reason one should accept that in this situation the relevant provisions on the course for publishing the forfeiture of binding force of acts lower in rank than a statute are applicable as incorporated in article 10, section 3 of the Constitutional Tribunal Act. The President of the Constitutional Tribunal therefore publishes the forfeiture of a statute's binding force in the Journal of Laws. The date of publication is the day when the decision of the Constitutional Tribunal comes into force and as a result of which the statute loses its binding force. The Sejm proceeds similarly when executing a decision of the Constitutional Tribunal; it repeals the provisions of the statute covered by the decision by way of a statute, concurrently specifying the date when the statute shall come into force.

The loss of a statute's binding force as the result of Constitutional Tribunal decisions which are not reviewed by the Sejm or are not executed by the Sejm by the deadline necessitates the explanation by the Constitutional Tribunal of the consequences which the forfeiture of binding force brings about for the procedures in amending legally-binding court decisions, decisions and otherjudgments made by applying the provision of the statute contravening the Constitution and specified in article 31 of the Constitutional Tribunal Act. The consequences must also be considered which are induced by this same reason for court, administrative and other types of proceedings which were suspended as a result of authorized bodies having submitted legal questions to the Constitutional Tribunal (article 11 of the Constitutional Tribunal Act); these consequences pertain to the subject matter regulated in article 25, section 5 of the Constitutional Tribunal Act.

In regards to the first issue, one should accept the view that just like legally binding court decisions, administrative decisions and the other judgments mentioned in article 31 issued by applying a provision in a statute deemed to be contradictory to the Constitution as the result of a decision made by the Constitutional Tribunal, which were amended or repealed in part or in full by the Sejm, may be renewed, repealed, deemed to be null and void or that they are subject to repeal by the course and according to the principles prescribed by law; similarly, such consequences are brought about by the loss of binding force of a provision in a statute covered by a decision of the Constitutional Tribunal as a result of the Sejm's failure to review the decision or the Sejm's failure to execute the decision which it deemed to be justified by the statutory deadline.

In regards to the second issue, the view is justified that in the event that the Constitutional Tribunal's assertion of a statute's nonconformity with the Constitution took place as the result of considering a legal question and that the statute forfeited its binding

force as a consequence of the Sejm not reviewing the Constitutional Tribunal's decision by the statutory deadline or not removing the nonconformity by this same deadline even though the Sejm deemed the decision to be justified – administrative, court and other proceedings, suspended in compliance with article 1 I, section 2 of the Constitutional Tribunal Act, are undertaken anew after the President of the Constitutional Tribunal publishes the forfeiture of the statute's binding force. For we are dealing here with a situation that is similar to the one mentioned in article 10, section 1 of the Constitutional Tribunal Act, and which – in keeping with article 25, section 5 in fine – constitutes cause for undertaking proceedings which have been suspended until the time when the Constitutional Tribunal decides on the legal question.

5. The question incorporated in the fourth section of the petition submitted by the Commissioner for Citizens' Rights was limited to the situation when the Sejm (and the Senate) are dissolved by the Head of State [President] pursuant to article 66, section 5 of the Constitutional Act dated 17 October 1992. In the meanwhile the question equally refers to the instance when the Sejm is dissolved by the Head of State [President] according to the principle entailed in article 21, section 4 and article 62 of this Act and to the instance when the Sejm is dissolved by the power of its own resolution under the course of action specified in article 4, section 3 of this Act. In essence, this also refers to the situation in which the Sejm's term of office comes to a conclusion as the result of the ordinary elapse of time (article 4, section 1 of the Constitutional Act). With reference to all these circumstances outlined by the provisions of the Constitutional Act the question is important on whether surpassing the deadline envisaged in article 7, section 2 of the Constitutional Tribunal Act is permissible.

Over the period when article 6, section 2 of the Constitutional Tribunal Act was binding in its original reading, the Sejm was obliged, as written, to review a decision „at plenary sessions during the current or next session." Under the conditions in which this provision was binding in the Sejm's session system of work at the time, the deadline for reviewing a decision of the Constitutional Tribunal could always be met. The currently binding regulation on the deadline for the Sejm to review Constitutional Tribunal decisions in article 7, section 2 of the Constitutional Tribunal Act was introduced to the Act as a result of the amendment to the Constitutional Act dated 7 April 1989 and was related to the discontinuance of the Sejm's session system of work.

The contents of the provisions of the Constitutional Act amended on 7 April 1989 permitting the Sejm to dissolve itself or for the Head of State [President] to dissolve it before the elapse of its term of office (article 30), but in particular the contents of the provisions defining the deadline for calling elections (article 31, section 2) and for the Head of State [President] to convene the Sejm for its first sitting after the elections (article 22, section 2) prove that the lawmaker in amending the Constitutional Tribunal Act with the Act dated 19 May 1989 (Journal of Laws, Number 34, Item 178) had to have had in mind the possibility that the six month deadline for reviewing a decision of the Constitutional Tribunal would be exceeded in the situations created by the provisions of the Constitution of the Republic of Poland, counting from the day when it is presented to the Sejm. An identical situation occurs on the grounds of the binding Constitutional Act dated 17 October 1992 first and foremost when the contents of article 4, section 6 and article 9, section 2 of this Act are taken into account. In the event that the Sejm is dissolved by the Head of State [President] or if it is dissolved by the power of a resolution adopted by the Sejm, 3, 4 and even 5 months might elapse from the conclusion of the Sejm's term of office until the moment when the first sitting of the newly elected Sejm is convened. Presenting a Constitutional Tribunal decision to the Sejm to be reviewed earlier than 3, 2 or 1 month before the conclusion of the term of office poses a threat in that the deadline in article 7, section 2 of the Constitutional Tribunal Act may be exceeded if the Sejm fails to undertake in time the procedure for reviewing a Constitutional

Tribunal decision. In the event that the Sejm is dissolved ahead of schedule by the Head of State [President] of the Republic of Poland, this may occur without any negligence on the part of the Sejm.

In such a legal state one should accept that the Sejm's duty to abide by the deadline for reviewing a decision made by the Constitutional Tribunal specified in article 7, section 2 of the Constitutional Tribunal Act does not concern a situation which is the consequence of the conclusion of the Sejm's term of office as provided for in the instances envisaged by the Constitution of the Republic of Poland, i.e. the dissolution of the Sejm by the Head of State [President], its dissolution by the Sejm's own resolution and upon the elapse of its four-year term of office. For the flow of the six-month deadline specified in this provision to review a Constitutional Tribunal decision presented to the Sejm is suspended, i.e. the period elapsed from the date of conclusion of the Sejm's term of office until the date of commencement of the Sejm's new term of office is not counted against the flow of the deadline which has already commence in conformance to the provisions of the Constitutional Act dated 17 October 1992; after which, it starts to run anew.