

Procedural decision of 11<sup>th</sup> May 2004, [K 15/04](#)  
**INADMISSIBILITY OF GRANTING AN “INTERIM INJUNCTION”  
IN THE REVIEW OF NORMS PROCEEDINGS**

<b>Type of proceedings:</b> <a href="#">Abstract review</a> <b>In this case:</b> Motion to grant an interim injunction <b>Initiator:</b> Group of Deputies	<b>Composition of Tribunal:</b> 5-judge panel	<b>Dissenting opinions:</b> 0
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A group of Deputies of the Sejm (i.e. the lower house of the Polish Parliament) sought to initiate proceedings before the Constitutional Tribunal challenging several provisions of the Electoral Law to the European Parliament Act of 23<sup>rd</sup> January 2004, together with a Decision of the President of the Republic of Poland of 9<sup>th</sup> March 2004 calling European Parliamentary elections for 13<sup>th</sup> June 2004. The decisions of the Tribunal concluding proceedings in this case are: the procedural decision of 18<sup>th</sup> May 2004 and the judgment of 31<sup>st</sup> May 2004, which are summarised separately (all reference numbers being the same as above).

Prior to examining the merits of the applicants' claims, the Constitutional Tribunal examined a motion “to grant an interim injunction”, in which the applicants requested that the case be heard immediately. The applicants relied on an institution from Polish civil procedure law, whereby the court hearing the case grants an appropriate “interim injunction” for the duration of the trial. Article 20 of the Constitutional Tribunal Act provides that, in cases not regulated therein, the provision of the Code of Civil Procedure shall apply “as appropriate” (i.e. *mutatis mutandis*).

Only in one matter, i.e. in the [constitutional complaint](#) proceedings, the Constitutional Tribunal Act 1997 envisages explicitly the possibility for the Tribunal to issue so-called preliminary decision. Such a decision may not, however, concern the challenged legal norms but it involves the suspicion or the stop of enforcement of the individual decision (i.e. court judgment or decision of an organ of the administration) which the constitutional complaint refers to (Article 50).

#### RULING

**The Tribunal dismissed the motion insofar as it related to the necessity of granting an interim injunction in accordance with the procedure laid down by Article 730 of the Civil Procedure Code, read in conjunction with Article 732 § 2 and 755 of that Code.**

#### PRINCIPAL REASONS FOR THE RULING

1. It follows from Article 20 of the Constitutional Tribunal Act 1997, which provides for the appropriate application of the Civil Procedure Code provisions in matters not regulated by this Act, that some of these provisions will not be applied in proceedings before the Tribunal – either because the issue is already regulated by the CT Act or because the Code's provisions are inadequate for such proceedings.

2. The appropriate provisions of the Civil Procedure Code, which serve the purpose of granting an interim injunction by the common courts or arbitration panels, are inadequate for proceedings before the Constitutional Tribunal assessing the constitutionality of normative acts.

#### Provisions of the Constitutional Tribunal Act

**Art. 20.** In relation to cases not regulated in the Act concerning the proceedings before the Tribunal, the provisions of the Code of Civil Procedure shall apply.

**Art. 50.** 1. The Tribunal may issue a preliminary decision to suspend or stop the enforcement of the judgment in the case to which the complaint refers if the enforcement of the said judgment, decision or another ruling might result in irreversible consequences linked with great detriment to the person making the complaint or where a vital public interest or another vital interest of the person making the complaint speaks in favour thereof.

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

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