

Judgment of 31<sup>st</sup> January 2001, P 4/99  
**INHERITANCE OF FARMS**

<p><b>Type of proceedings:</b>  Abstract review;  Question of law referred by a court  <b>Initiators:</b>  Commissioner for Citizens' Rights;  District Courts in:  Olsztyn, Kędzierzyn-Koźle, Wrocławek</p>	<p><b>Composition of Tribunal:</b>  Plenary session</p>	<p><b>Dissenting opinions:</b>  0</p>
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Legal provisions under review	Basis of review
<p>Provisions governing, in the special manner (i.e. different from the general rules of inheritance law), the inheritance of farms, in force in the various periods of time</p> <p>[Civil Code 1964: Articles 1058, 1059, 1060, 1062, 1063, 1064, 1066, 1079, 1081, 1082, 1086, 1087 (in the wording introduced in 1971, 1982 and 1990); Regulation of the Council of Ministers on the Conditions Governing the Statutory Inheritance of Farms 1990]</p>	<p>Protection of ownership and succession  Principle of proportionality  Principle of equality</p> <p>[Constitution: Articles 21(1), 31(3), 32(1), 32 (2), 37, 64; Protocol No. 1 to the (European) Convention for the Protection of Human Rights and Fundamental Freedoms: Article 1]</p>

Special provisions governing the inheritance of farms in Poland, significantly modifying the general principles of inheritance law, entered into force in 1963. When the Civil Code entered into force in 1964, these special provisions were included in Title X (Article 1058 *et seq.*) of Book Four of the Code. These provisions were amended (partly liberalised) by amendments to the Civil Code in 1971, 1982 and 1990. Special inheritance law regulations were supposed to limit the sub-division of private farms and to limit the obligation of persons having inherited farms to compensate other heirs, not employed in agriculture, who did not inherit the farm. Until the 1982 amendments it was also possible to discern, in the background of these regulations, a political desire to limit the participation of private ownership in Polish agriculture.

The provisions governing the entitlement of certain persons to inherit farms (universal succession) were based on the concept of limiting the categories of heirs entitled to inherit farms. Certain criteria were required to be fulfilled before a farm could be inherited by an heir. These criteria were connected either with the potential heir's employment in agriculture, with his agricultural education or, conversely, with certain social objectives – the heir being a minor, still studying or being permanently unable to work. The legislator entrusted the Council of Ministers with the task of further defining the terms used in the Code by issuing regulations thereon. Any heir failing to fulfil the criteria specified in the aforementioned provisions had no right to inherit a farm, nor to claim compensation from other heirs who did inherit the farm.

Until the entry into force of the 1990 amendment, the rules governing the special selection of heirs entitled to inherit farms applied to both statutory (intestate) succession and to testate succession. Only following the adoption of the 1990 amendment were the eligibility criteria abolished in respect of testate succession.

Until the entry into force of the 1982 amendments, farms were inherited *ex lege* by the State Treasury where the living heirs of the deceased's family did not fulfil any of the eligibility criteria for inheriting a farm, or where they were all permanently unable to work (Article 1063 of the Civil Code). The 1982 amendment provided for the inheritance of farms in such cases to be governed by the general rules of inheritance (i.e. without the statutory selection of heirs).

After 1989, when constitutional guarantees of private ownership and inheritance were strengthened, an increasing number of people argued that it was unconstitutional to provide for the statutory limitation of heirs entitled to inherit a farm, by requiring the fulfilment of specified criteria at the time that the deceased's estate was opened. Other allegations of unconstitutionality stressed that many of the terms used for governing a person's right to inherit a farm (such as "qualifications to manage a farm", "learning of a profession or attending school" or "permanent inability to work") were not directly defined by statute but rather in the Council of Ministers' Regulation.

Until the present case, in 2001, the Constitutional Tribunal did not have the opportunity to adjudicate upon the constitutionality of special principles of inheritance law concerning farms. The application of the Commissioner for Citizens' Rights in the present case, and the referral of questions of law by various courts, provided the Tribunal with this opportunity, however. The full version of the Tribunal's official ruling in this case (summarised below in bold and in a simplified form) is particularly complicated for two reasons.

Firstly, the initiators of the proceedings before the Constitutional Tribunal challenged a number of provisions which had been amended on a number of occasions; the initiators' claims concerned versions of these provisions which were binding at different periods of time, applying a different constitutional basis of review to each particular version. In effect, the provisions of the 1997 Constitution forming the basis of review in the present case were: Article 21(1) (principle of protection of ownership and the right of succession); Article 64(1) (right to ownership and succession); Article 64(2) (right to equality in respect of the protection of ownership and succession); Article 64(3) (prohibiting the limitation of the right of ownership by sub-statutory acts and prohibiting the violation of the essence of this right); and Article 31(3) (principle of proportionality). Furthermore, Article 1 of Protocol No. 1 to the (European) Convention for the Protection of Human Rights and Fundamental Freedoms was relied upon.

Secondly, the Constitutional Tribunal noted that, if a ruling of unconstitutionality of the challenged provisions was to be allowed to have retrospective effect (i.e. by applying to situations prior to the entry into force of the Tribunal's ruling), this would have the effect of depriving or limiting the rights already acquired by selected heirs by virtue of the challenged provisions. This in itself would be contrary to the Constitution. Accordingly, the Tribunal was required – as a precedent – to divide its constitutional review of the challenged provisions according to the date on which a given provision applied. In relation to estates opened prior to the entry into force of this ruling (i.e. following its publication in the Journal of Laws), the Tribunal decided to treat the challenged provisions as compatible with the Constitution, in order to ensure the continued protection of rights acquired on the basis of such provisions. This was not the case in respect of the challenged provisions applicable to future circumstances.

Exceptionally, the Tribunal did not constrain itself from declaring (in point 5a of the ruling, below) the retrospective nature of its finding of unconstitutionality of the provisions in force prior to the 1982 amendment, allowing the State Treasury to inherit a farm instead of the living heirs of the deceased's family since, in such cases, the retrospective nature of the ruling does not conflict with any established legal interests of private persons.

The ruling discussed herein in fact amounts to the equivalent of agricultural inheritance law reform, annulling the system for selecting heirs entitled *ex lege* to inherit farm. The judgment, however, does not infringe the special provisions of the Civil Code concerning legacies, the division of the estate and the calculation of legitime – in relation to inheritance of farms; these provisions are supposed to limit the subdivision of farms and the heirs' obligation of compensation.

## RULING

**1. Article 1058 of the Civil Code (providing that the general rules of inheritance law shall be applied in respect of farms in conjunction with amendments contained in provisions of Title X, Book 4 of the Code) does not violate the constitutional provisions forming the basis of review.**

**2. Article 1059 of the Civil Code (containing the statutory criteria requiring fulfilment if a statutory heir is to be entitled to inherit a farm *ex lege*), in the version contained in the amendment of 1971 and in the version contained in the amendment of 28<sup>th</sup> July 1990**

– does not violate the constitutional provisions forming the basis of review, insofar as it refers to estates opened prior to the day of publication of this judgment in the Journal of Laws,

– does not conform to Article 64(1) and 64(2), read in conjunction with Article 21(1) and Article 31(3), of the Constitution, insofar as it refers to estates opened from that day forth.

**3. Article 1060 of the Civil Code, in the version contained in the amendment of 28<sup>th</sup> July 1990 (statutory inheritance of a farm by the deceased's grandchildren who fulfil the special conditions for inheriting a farm where their parents are unable to inherit the farm because they do not fulfil these conditions)**

– does not violate the constitutional provisions forming the basis of review, insofar as it refers to estates opened prior to the day of publication of this judgment in the Journal of Laws,

– does not conform to Article 64(1) and 64(2), read in conjunction with Article 21(1) and Article 31(3), of the Constitution, insofar as it refers to estates opened from that day forth.

**4. Article 1062 of the Civil Code in the version contained in the amendment of 28<sup>th</sup> July 1990 (statutory inheritance of the farm by the deceased's brothers and sisters who fulfil the special conditions for inheriting a farm where the deceased's descendants are unable to inherit the farm because they do not fulfil these conditions)**

– does not violate the constitutional provisions forming the basis of review, insofar as it refers to estates opened prior to the day of publication of this judgment in the Journal of Laws,

– does not conform to Article 64(1) and 64(2), read in conjunction with Article 21(1) and Article 31(3), of the Constitution, insofar as it refers to estates opened from that day forth.

**5. Article 1063 of the Civil Code:**

a) in the text promulgated on 18<sup>th</sup> May 1964 and subsequently amended by the amendment of 26<sup>th</sup> October 1971, in force until the entry into force of the amendment of 26<sup>th</sup> March 1982 (inheritance of a farm by the State Treasury where statutory heirs from the devisor's family do not fulfil the conditions for inheriting a farm, or fulfil them but are unable to work) does not conform to Article 21(1) and (2) and Article 64(1) and (3), read in conjunction with Article 31(3), of the Constitution;

b) in the version contained in the amendment of 26<sup>th</sup> March 1982 (inheritance of a farm in accordance with general principles of inheritance law where none of the statutory heirs fulfil the conditions for inheriting a farm, or when all of such heirs are permanently unable to work) does not violate the constitutional provisions forming the basis of review.

**6. Article 1064 of the Civil Code in the version contained in the amendment of 28<sup>th</sup> July 1990 (granting the Council of Ministers authorisation to adopt regulations to further define some of the statutory conditions governing the inheritance of farms)**

– does not violate the constitutional provisions forming the basis of review, insofar as it refers to estates opened prior to the day of publication of this judgment in the Journal of Laws,

– does not conform to Article 64(1) and 64(2), read in conjunction with Article 21(1) and Article 31(3), of the Constitution, insofar as it refers to estates opened from that day forth.

**7. Article 1066 of the Civil Code (a two-part procedure for judicial confirmation of the acquisition of an inheritance where the estate includes a farm: firstly, an indication of heirs entitled to inherit in accordance with general principles, and their respective shares in this inheritance; secondly, an indication of heirs entitled to inherit a farm, and their respective shares in the farm) does not violate the constitutional provisions forming the basis of review.**

**8. Article 1079 of the Civil Code (the principle that, when dividing an estate, heirs' shares in a farm are offset against their shares in the entire estate) does not violate the constitutional provisions forming the basis of review.**

**9. Article 1081 of the Civil Code (special principles of liability for debts of the inheritance connected with the farm) does not violate the constitutional provisions forming the basis of review.**

**10. Article 1082 of the Civil Code (taking into account special principles of inheritance of farms whilst calculating the legitime) does not violate the constitutional provisions forming the basis of review.**

**11. Article 1086 of the Civil Code (stipulating that the special principles for inheriting a farm shall apply as appropriate to the inheritance of contributions in land to an agricultural produce co-operative) does not violate the constitutional provisions forming the basis of review.**

**12. Article 1087 of the Civil Code (special conditions for eligibility to inherit a contribution in land to an agricultural produce co-operative)**

– does not violate the constitutional provisions forming the basis of review, insofar as it refers to estates opened prior to the day of publication of this judgment in the Journal of Laws,

– does not conform to Article 64(1) and 64(2), read in conjunction with Article 21(1) and Article 31(3), of the Constitution, insofar as it refers to estates opened from that day forth.

**13. The Council of Ministers' Regulation of 12<sup>th</sup> December 1990 on the Conditions Governing the Statutory Inheritance of Farms**

– does not violate the constitutional provisions forming the basis of review, insofar as it refers to estates opened prior to the day of publication of this judgment in the Journal of Laws,

– does not conform to Article 64(1) and 64(2), read in conjunction with Article 21(1) and Article 31(3), of the Constitution, insofar as it refers to estates opened from that day forth.

#### PRINCIPAL REASONS FOR THE RULING

1. Statutory provisions which have given rise to a legal situation envisaged by their contents may be reviewed from the perspective of their conformity to the currently binding Constitution (i.e. the 1997 Constitution) despite the fact that this was not in force at the time such a legal situation was created, provided that they may form the basis of decisions taken by organs entitled to apply them and, in particular, may constitute the legal grounds for decisions taken by the courts.
2. A legal provision may be said to have lost binding force, for the purposes of deciding whether to discontinue proceedings before the Constitutional Tribunal pursuant to Article 39(1) point 3 of the Constitutional Tribunal Act, only when it may no longer be applied to any given factual situation. When considering whether repealed provisions may still be applied, one should be guided by the contents of the applicable transitional norm.
3. Article 64(1) of the Constitution, read in conjunction with Article 64(2) and Article 21(1), forms the basis of a public subjective right, the content of which is the constitutionally guaranteed freedom to acquire, maintain and dispose of property. The disposal of property involves in particular the alienation thereof (in whole or in part) by means of actions *inter vivos* and *mortis causa*.
4. The constitutional subjective right in question is of a type which requires, for its realisation, the existence of binding statutory regulations concerning not only the possible limitations on this right (cf. Article 31(3) and Article 64(3) of the Constitution) but also – first and foremost – the contents thereof.
5. It follows from Article 20, Article 21 and Article 64(1) and (2) of the Constitution that the right of succession is predominantly a guarantee that ownership shall remain in private hands. A natural person's right to ownership may not expire when that person dies but should continue, which assumes the transfer of ownership to another person(s). The right of succession makes private ownership a permanent institution, unlimited in time. Other property rights may be set out as hereditary rights, but this need not necessarily be the case.

6. The constitutional notion of succession (Article 21 and Article 64) should be understood in a broader manner than that contained in the provisions of inheritance law. In particular, the Constitution does not require the structure of an inheritance, understood as the totality of property rights and duties (i.e. assets and liabilities) forming the subject of succession, to be defined further by statute. Furthermore, the Constitution does not determine the manner in which a deceased's legal successors will succeed to the rights and duties vested in him at the time of his death.
7. Article 64(1) of the Constitution implies a prohibition, addressed to the legislator, on depriving any category of persons of their capacity to inherit and, thereby, their ability to acquire the ownership and other property rights of a deceased person who enjoyed such rights whilst still alive. This provision only guarantees the right of succession in an abstract sense: it ensures that anyone may be a legal successor of a deceased person, but does not guarantee an acquisition of any specific property rights inherited from a particular deceased.
8. The bond linking the categories of ownership and succession (in light of Article 21(1) and Article 64(1) and (2) of the Constitution) justifies the legally binding force of the requirement that the legislator must take account of the owner's wishes as the primary factor in determining who is to receive components of his estate upon his death.
9. Since not all natural persons are able to dispose of their property in the event of death (*mortis causa*) and, as practice shows, not all persons do so, the legislator should introduce subsidiary regulations to unequivocally determine the relevant heirs in the event that the deceased has not left a valid will. Although the Constitution provides the legislator with certain guidelines regarding statutory inheritance, it does not provide (neither in Article 21 nor in Articles 18 and 71) any strict uniform norms regarding the determination of statutory heirs, the order of their succession and their share of the estate. The legislator should, in this matter, respect the constitutional values and the prerequisite of adapting the order of succession to the presumed will of the deceased.
10. Since the institution of inheritance is intended to ensure legal certainty in relation to deceased's property, the passing of property from a deceased to the State Treasury or other public entity is not entirely excluded, but may only take place when it is not possible to determine any natural person(s) to whom the property should pass by virtue of the proximity between such persons and the deceased.
11. Since, in the case of statutory inheritance, the legislator acts in a certain sense on behalf of the deceased, in delineating the circle of persons entitled to acquire the estate, it is permissible for the legislator to realize other constitutional objectives when performing this task, other than merely "discovering" the deceased's will. The scope of the legislator's freedom in such cases permits somewhat greater interference in the legal regulation of individual components of the deceased's estate than in the case of inheritance which was actually based on the deceased's will.
12. Any modification of general principles of inheritance law concerning farms may not be arbitrary, but should serve the practical realisation of the principle, expressed in Article 23 of the Constitution, whereby a family farm is the basis of the State agricultural system. The family farm is not an end in itself, however, and should be an effective form of management.

13. The second sentence of Article 23 of the Constitution implies a prohibition on eliminating the institution of succession in regulation of farm ownership and prohibits the introduction of provisions precluding testamentary freedom or the equal protection of the rights of all heirs.
14. In the case of inheritance of undertakings (of which farms are a specific type), the public reasons mentioned in Article 22 of the Constitution may argue in favour of undertakings remaining under the undivided control of one person.
15. The principle expressed in Article 64(2) of the Constitution, referring to equality in respect of the protection of succession, consists not only of ensuring availability of the same legal measures to protect all entitled persons, but also of ensuring such persons the right to acquire an enrichment corresponding to their share in the estate and the value of the estate.
16. The aforementioned principle does not guarantee equal rights for all heirs and is not absolute. Differentiations may result, in particular, from the deceased's will and, furthermore, from the factual or legal inability to ensure that all heirs enjoy the same rights to all components of an estate. Where it is necessary to protect the family nature of a farm, or to ensure the correct and rational management thereof, the principle does not exclude the possibility of limiting the amount of compensation due from an heir who has inherited a farm as the result of division of an estate, or spreading such compensation payments over a period of time.
17. A situation whereby some heirs are statutorily appointed (i.e. eligible *ex lege*) to inherit a farm, whilst other heirs may only be entitled to inherit other components of the estate, need not be regarded as an infringement of Article 64(1) and Article 21(1) of the Constitution. However, the regulation adopted in Article 1059 of the Civil Code, in the version contained in the amendments of 28<sup>th</sup> July 1990, read in conjunction with Article 1060 and 1062, of the Civil Code and, by analogy, also with Article 1087 of the Civil Code (referring to contributions in land to an agricultural produce cooperative) does not fulfil the requirements of Article 64(2) of the Constitution.
18. The arguments for the unconstitutionality of the aforementioned provisions of the Civil Code, as regards the version of this provision in force on the date that this ruling was pronounced, apply *a fortiori* (i.e. even more so) to the rules governing the inheritance of farms which entered into force with the amendments of 26<sup>th</sup> October 1971, which continued to apply until the Civil Code was amended again on 26<sup>th</sup> March 1982. A crucial factor here is that the limitation of the categories of statutory heirs entitled to inherit a farm rendered it more likely that a farm would be inherited *ex lege* by the State Treasury (Article 1063 of the Civil Code, in the version which was binding at this time).
19. The constitutional principle of non-retroactivity (*lex retro non agit*), whilst not absolute, is one of the fundamental concepts of the rule of law principle, as found in Article 2 of the Constitution. It is addressed not only to the legislative authorities, but also to the Constitutional Tribunal, which has the power to deprive the whole, or any part, of a normative act of its binding force, thereby changing the legal *status quo*.
20. When ruling on the conformity with the Constitution of the provisions challenged in this case, the Constitutional Tribunal must also take account of the fact that application

of the new legal position resulting from the current judgment to estates opened prior to the promulgation thereof in the Journal of Laws would inevitably lead to a collision with constitutional values, in particular those protecting legal security and trust in the law. Accordingly, the Tribunal considers it justified to minimise the impact of the judgment in the present case on pre-existing legal relationships, assuming the opening of the deceased's estate as the demarcation criterion.

21. The aforementioned exclusion of retroactivity in respect of the unconstitutional provisions does not apply to Article 1063 of the Civil Code, as originally adopted and subsequently amended on 26<sup>th</sup> October 1971 (which remained in force until 6<sup>th</sup> April 1982), which specified the circumstances in which a farm (or land contribution) belonging to a natural person would pass to the State Treasury, even though the Treasury was not eligible *ex lege* to inherit the entire estate. The purpose of this provision was to allow the State to take over agricultural land, which amounts to a kind of expropriation and violates the essence of the right of succession (cf. point 5 above).
22. It follows from Article 31(3) of the Constitution that the formation of a subjective public-law right of a constitutional character should be done directly by statute; it is not permissible to allow the basic elements of such a right to be governed by regulation.
23. Article 1064 of the Civil Code, in the version contained in the amendment of 28<sup>th</sup> July 1990, violates the constitutionally defined relationship between statutes and sub-statutory acts as regards human and civil rights and freedoms (Article 31(3) of the Constitution) since, in reality, the regulation's provisions have decisive meaning and, in the absence of such provisions, it would be virtually impossible to exercise the constitutional guarantee of the right of succession.
24. When an authorising provision is deprived of binding force due to its failure to conform to the Constitution, this inevitably leads to the loss of binding force of any executive provisions issued on the basis of the authorising provision.
25. The violation of the principle of universality in the enjoyment of rights and freedoms guaranteed by the Constitution, as expressed in Article 37 (read in conjunction with Article 32 and Article 64(2)), as regards the regulation of inheriting farms, may only be perceived in respect of Article XXIII of Introductory Provisions of the Civil Code. Since the Constitutional Tribunal is bound by the limits of question of law referred thereto (Article 66 of the Constitutional Tribunal Act), this issue must remain outside the scope of the present review.
26. The institution of legitime (i.e. forced portion) concerns the duty to protect marriage, parenthood and family (Article 18 and 71 of the Constitution). Unlike the right of succession, however, the Constitution does not guarantee the institution of legitime and, in particular, does not demand that such an institution shall be introduced and so neither determines the nature of this institution nor the circle of its beneficiaries. Neither does the Constitution specify whether the right to legitime should concern the deceased's whole estate nor merely certain component parts thereof.
27. The contents of Article 1 of Protocol No. 1 to the (European) Convention for the Protection of Human Rights and Fundamental Freedoms guarantees the right to unimpeded enjoyment of possessions. This provision applies only to property belonging to a certain person at a certain time; it does not guarantee the right to acquire property ei-



ther by inheritance or in any other manner. The freedom to dispose of one's estate in the event of death (*mortis causa*) is protected by the said Article 1; however, no person may refer to this provision as the basis of a claim to acquire the estate of a deceased person.

28. The direct applicability of the Constitution (Article 8(2)) does not mean that the courts, or other organs entitled to apply legal provisions, are empowered to review the constitutionality of binding legislation. Article 188 of the Constitution provides that the Constitutional Tribunal shall have exclusive competence to adjudicate on matters mentioned in this Article.
29. Article 178(1) of the Constitution, in providing that judges are subject to the Constitution and statutes, completes the regulation provided for in Article 193 of the Constitution; from these Articles stems the duty to utilise the possibility in Article 193 in each case when the court decides that the reviewed provision does not conform to the Constitution. The presumption of a statute's conformity with the Constitution may be rebutted only by a judgment of the Constitutional Tribunal and a judge is bound to apply a statute whilst it remains in force.
30. The removal from the legal order of certain provisions, considered by the Tribunal as incompatible with the Constitution, may cause norms contained in other legal provisions in force to lose their legal significance. However, where a particular norm loses its legal significance as a result of a ruling of the Tribunal, this does not mean that such a norm is incompatible with the Constitution.

#### Provisions of the Constitution and the Constitutional Tribunal Act

##### Constitution

**Art. 2.** The Republic of Poland shall be a democratic state governed by the rule of law and implementing the principles of social justice.

**Art. 8.** [...] 2. The provisions of the Constitution shall apply directly, unless the Constitution provides otherwise.

**Art. 18.** Marriage, being a union of a man and a woman, as well as the family, motherhood and parenthood, shall be placed under the protection and care of the Republic of Poland.

**Art. 20.** A social market economy, based on the freedom of economic activity, private ownership, and solidarity, dialogue and cooperation between social partners, shall be the basis of the economic system of the Republic of Poland.

**Art. 21.** 1. The Republic of Poland shall protect ownership and the right of succession.  
2. Expropriation may be allowed solely for public purposes and for just compensation.

**Art. 22.** Limitations upon the freedom of economic activity may be imposed only by means of statute and only for important public reasons.

**Art. 23.** The basis of the agricultural system of the State shall be the family farm. This principle shall not infringe the provisions of Articles 21 and 22.

**Art. 31.** [...] 3. Any limitation upon the exercise of constitutional freedoms and rights may be imposed only by statute, and only when necessary in a democratic state for the protection of its security or public order, or to protect the natural environment, health or public morals, or the freedoms and rights of other persons. Such limitations shall not violate the essence of freedoms and rights.

**Art. 32.** 1. All persons shall be equal before the law. All persons shall have the right to equal treatment by public authorities.  
2. No one shall be discriminated against in political, social or economic life for any reason whatsoever.

**Art. 37.** 1. Anyone, being under the authority of the Polish State, shall enjoy the freedoms and rights ensured by the Constitution.  
2. Exemptions from this principle with respect to foreigners shall be specified by statute.

**Art. 64.** 1. Everyone shall have the right to ownership, other property rights and the right of succession.  
2. Everyone, on an equal basis, shall receive legal protection regarding ownership, other property rights and the right of suc-

cession.

3. The right of ownership may only be limited by means of a statute and only to the extent that it does not violate the substance of such right.

**Art. 71.** 1. The State, in its social and economic policy, shall take into account the good of the family. Families, finding themselves in difficult material and social circumstances - particularly those with many children or a single parent - shall have the right to special assistance from public authorities.

2. A mother, before and after birth, shall have the right to special assistance from public authorities, to the extent specified by statute.

**Art. 178.** 1. Judges, within the exercise of their office, shall be independent and subject only to the Constitution and statutes.

**Art. 188.** The Constitutional Tribunal shall adjudicate regarding the following matters:

- 1) the conformity of statutes and international agreements to the Constitution;
- 2) the conformity of a statute to ratified international agreements whose ratification required prior consent granted by statute
- 3) the conformity of legal provisions issued by central State organs to the Constitution, ratified international agreements and statutes;
- 4) the conformity to the Constitution of the purposes or activities of political parties;
- 5) complaints concerning constitutional infringements, as specified in Article 79(1).

**Art. 193.** Any court may refer a question of law to the Constitutional Tribunal as to the conformity of a normative act to the Constitution, ratified international agreements or statute, if the answer to such question of law will determine an issue currently before such court.

#### **CT Act**

**Art. 39.** 1. The Tribunal shall, at a sitting in camera, discontinue the proceedings:

[...]

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

**Art. 66.** The Tribunal shall, while adjudicating, be bound by the limits of the application, question of law or complaint.