

Procedural decision of 15th February 2006, [SK 58/05](#)

**THE RISK OF “IRREVERSIBLE CONSEQUENCES” AS A PREMISE FOR
THE TRIBUNAL’S ISSUE OF AN INTERIM DECISION REGARDING
THE STAY OF EXECUTION OF A JUDICIAL DECISION PRIOR
TO THE CONSIDERATION OF A CONSTITUTIONAL COMPLAINT**

Type of proceedings: Constitutional complaint In this case: refusal to issue an interim procedural decision Initiator: A natural person	Composition of Tribunal: 5-judge panel	Dissenting opinions: 0
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Coming before the Tribunal was a case initiated by way of the constitutional complaint lodged by Mr Sz. The complainant demanded that the Tribunal find a provision of Hunting Law in non-conformity with the Constitution. This challenged provision contains the statutory authorisation of the issue of executive regulations that allowed a District Court to determine, in the course of criminal proceedings, the pecuniary amount to be paid by the complainant in respect of damage compensation.

Simultaneously, the complainant requested that the Tribunal apply the interim measure envisaged in Article 50 of the Constitutional Tribunal Act 1997, and more specifically – stay the execution of a judgment issued by the District Court in the part concerning the obligation to compensate for damage through remittance, within one year of the day the judgment becomes final, of the sum of 8000 Polish Zloty.

Shortly after the procedural decision summarised herein had been issued, the Constitutional Tribunal issued its [procedural decision of 21st March 2006](#) (reference number as above) discontinuing proceedings by reason of the inadmissibility of pronouncing judgment.

RULING

The Tribunal refused to issue an interim procedural decision.

PRINCIPAL REASONS FOR THE RULING

1. A constitutional complaint fulfils a supplementary function in relation to other means by which the freedoms and rights of persons and citizens are protected (cf. Article 79(1) of the Constitution). *A fortiori*, such a supplementary nature characterises interim decisions to stay the execution of a judgment. The prerequisites for the application thereof, as laid down in Article 50(1) of the Constitutional Tribunal Act 1997, may not be interpreted expansively.
2. In general, the material consequences of court judgments are not irreversible.
3. The present case lacks the grounds upon which to assume that the execution of the District Court’s judgment, in the part concerning compensation for damage through

remittance of the prescribed amount, might result in irreversible consequences, within the meaning of Article 50(1) of the Constitutional Tribunal Act 1997.

4. The possibility of the District Court's applying a substitute penalty of imprisonment against the complainant, in the event of a failure to compensate for the damage, may not justify the stay of execution of the judgment by the Constitutional Tribunal, especially as the Court's decision concerning the order to implement the penalty has not yet been issued.

Provisions of the Constitution and the Constitutional Tribunal Act

Constitution

Art. 79. 1. In accordance with principles specified by statute, everyone whose constitutional freedoms or rights have been infringed, shall have the right to appeal to the Constitutional Tribunal for its judgment on the conformity to the Constitution of a statute or another normative act upon which basis a court or organ of public administration has made a final decision on his freedoms or rights or on his obligations specified in the Constitution.

CT Act

Art. 50. 1. The Tribunal may issue an interim procedural 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 interim procedural 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 interim procedural decision if the reasons for which it was given are no longer in effect.