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**THE “POLISH MODEL” OF
LEGAL INTERPRETATION OF LAW¹ AND
THE SOLUTIONS IN EASTERN EUROPE**

The “Polish model”, or the lack of an institution authorised by the state to make an interpretation of the law, has been in operation for the last fifteen years. As it seems the persons interested in the issue are satisfied by the situation, the decision made in the course of work over the new Constitution appears to be justified. It emerges that the reasons which were its basis still hold. However, it seems that they have not always been observed, and in other countries of our region the decisions to adopt such a radical solution have not been made. Therefore, it is worth considering whether the Polish constitution-maker was too precipitate in making a decision of depriving a state body of the right to make a legal interpretation or whether the risks which appeared in Poland also emerged in other countries, or perhaps they were ignored.

One of the manifestations of the systematic transformation was granting the Polish Constitutional Tribunal the function of establishing the commonly binding interpretation of statutes in 1989.² The Constitutional Act of 17 October, 1992 on the mutual relations between the legislative and executive power of the Republic of Poland and the local government, or the so-called Small Constitution from 1992 in its Art. 77 held in force part of the currently binding provisions of the Constitution from 1952, including

¹ In Polish law the term ‘legal interpretation’ is used for the specific category of interpretation exercised by the organs which did not issue the law but are legally authorised to interpret it.

² Art. 1 section 10 of the Act of 7 April, 1989 on Amendments to the Constitution of the People Republic’s of Poland amending Art. 33a section 1 of this Constitution, J. of Laws 1989 no. 19 item 101. Another competence of the Constitutional Tribunal which appeared in 1989 was issuing decisions on the non-constitutional character of goals and activities of political parties.

those concerning the Constitutional Tribunal. Thus, it maintained the powers of the Tribunal to make a binding interpretation of statutes and, which proved to be important, embedded it outside the legislature as the body of control over the constitutional character of law with specific features of its own, using jurisdiction methods.

Given the fact that the *sine qua non* condition for the existence of a constitutional court is granting it the competence to examine the constitutional character of statutes, it is interesting to observe that some resolutions passed by the Tribunal and containing the interpretation were of a law-making character, and were final and commonly binding, as opposed to the judgments related to its fundamental activity; that is, the constitutional character of statutes which were not final and could be overruled by Parliament.

During the initial period of political transformation, the tribunal could skilfully use this side competence. Examples of independent attempts to define its own position on the basis of interpretative resolutions are the interpretative resolutions of 20 October 1993 and 5 September 1995.³ and extending the criteria of control by models taken from human rights in the international order.⁴

This was the vision of the Polish constitutional court until a full version of the constitution was passed in 1997. From the outset this vision did not suit the representatives of judicial power. The Supreme Court held that the commonly binding interpretation of statutes established by the constitutional court limited the independence of the judiciary, subjecting the interpretation made in the course of court proceedings to the interpretation imposed by the Constitutional Tribunal.⁵

These disputes intensified, as if a result of subsequent interpretive resolutions. They are well illustrated by questions, appearing in the science of law in the context of the Act of 7 March 1995, about the creativity of the Tribunal's interpretation as well as determination of their limits or the starting and final moment of the validity of the legal interpretation.⁶

³ Respectively stating that if the Sejm does not consider the decision within 6 months, it remains in force and causes lifting the provision of the law recognised as unconstitutional and certifying that unconstitutionality of the law contested under the preventive control is final.

⁴ See: M. Granat, Trybunał Konstytucyjny. Osiągnięcie czy zadanie? [in:] A. Szmyt (ed.) Trzecia władza. Sądy i trybunały w Polsce. Gdańsk 2008, s. 27.

⁵ See J. Sobczak, Sądy i trybunały [in:] W. Skrzydło (ed.) Polskie Prawo Konstytucyjne, Lublin 1998, p. 380.

⁶ Resolution of 7 March 1995, File ref. W 9/94 on establishing a generally valid interpretation of Article 13 para. 1 of the Act of 29 April 1985 on the Constitutional Tribunal (Dz. U. of 1991, No. 109, item 470 with subsequent amendments).

The criticism became more audible after the Small Constitution came into force. In view of the separation of powers principle, in the case of conflict of interpretations made by the Constitutional Tribunal and Supreme Court, the latter would have to apply the construction of provisions adopted by the constitutional court. According to the Supreme Court this state is not compliant with the principle of separation of powers and legal democratic state. This position was presented by the Supreme Court to the Constitutional Commission of the National Assembly which, in the resolution of the General Assembly of the Supreme Court, petitioned to deprive the Constitutional Tribunal of the competence in the matter of making a commonly binding interpretation of statutes. The Supreme Court was firm and confirmed its position in judicial practice. In the resolution of the Labour Law, Social Security and Public Affairs Chamber of 26 May, 1995 in Rzeszów it overtly opposed the interpretation of the Constitutional Tribunal and established a completely different interpretation based on which a common court of law gave an adequate ruling.⁷

Therefore, there was an open conflict between the Supreme Court and Constitutional Tribunal – a conflict the resolving of which was to be proposed by the Constitutional Committee, and which in consequence was resolved in the Constitution of 2 April, 1997. This solution took the opposite direction to those proposed by the representatives of the doctrine of law, who inclined to support the position of the Tribunal. As M. Granat aptly observes, this was of no serious importance for cancelling this entitlement of the Tribunal but it is worth remembering in the context of reflections or proposals of its restoring and possible discussion on the division of power within the whole judiciary.⁸ Freeing the judicial system from the binding interpretation of the Tribunal, about which the mainstream of the debate was, would be a certain solution.

Evoking the stormy doctrinal debate it is worth remembering the very balanced approach of the Tribunal itself to the matter of argument. The Tribunal emphasised the declarative nature of its interpretations, recommended moderation in taking legal interpretative resolutions, restricting itself to cases “particularly flagrant and important for praxis, which require, because of the public good, swift solutions and cannot wait for the establishment of interpretation, which is formed in the course of normal adjudicating of the organs applying law (the so-called ‘operative interpretation’). (...) each interpretation performed by the Constitutional Tribunal (...) petrifies

⁷ Resolution of the Supreme Court of 26 May, 1995, file ref. I PZP 13/95.

⁸ See: M. Granat, *Trybunał...*, op. cit., p. 27 as well as the discussion, *ibidem*, p. 79+.

to a great degree the law, which also supports the opinion that this form of interpretation not be overused.⁹ Indeed, it was difficult to find any “usurping” will in the position of the Tribunal.

The current constitution deprived the Constitutional Tribunal of competence to establish the commonly binding interpretation of laws, granted to it within the framework of previously binding constitutional norms.¹⁰ The constitution-maker in the articles devoted to the Tribunal ignored the competence in question. The intentions of the lawmaker do not raise doubts about radical provisions of Art. 239 of the Constitution placed in the transitional and final Provisions. Section 2 of this article says that the proceedings in the case of commonly binding interpretation of laws instituted before the Constitution came into force are subject to termination.¹¹

Another, even more important consequence at the date the Constitution came into force was the loss of force of the commonly binding resolutions of the Constitutional Tribunal pertaining to the establishment of statute interpretation.¹² Art. 239 section 3 of the Constitution did not envisage the general abrogation of these resolutions but the loss of their binding force. The abrogation concerned the position of interpretive resolutions in the system of law in force and leaving their informative or persuasive merit.¹³ The loss of binding force did not mean the loss of validity of the decisions made based on the resolutions of the Tribunal. The judgments of courts and other valid decisions of institutions of public authority, made in consideration of the meaning of the provisions made by the Tribunal by way of the commonly binding interpretation of the statutes, remained in force.¹⁴

The above solution was met with approval by the judiciary. It was argued that in the light of separation of powers principles, the independence of courts and judges who are only subject to the Constitution and statutes, other decisions would be difficult to justify.

However, by the annulment of the commonly binding, legal interpretation of statutes made by the Constitutional Tribunal, the Constitution of

⁹ See: Justification for the Resolution of 7 March 1995, *op. cit.*

¹⁰ See also Z. Czeszejko-Sochacki, Trybunał Konstytucyjny w świetle projektów konstytucji RP, *Państwo i Prawo* 1995, no. 2, p. 5 and next.

¹¹ By decisions of 12 November, 1997, the Supreme Court discontinued three proceedings pending at the moment the Constitution came into force.

¹² In the years 1989–1997 the Constitutional Tribunal took cognizance of approximately 100 cases pertaining to the establishment of statute interpretation.

¹³ Compare L. Garlicki, Omówienie art. 239, [in:] L. Garlicki (ed.), *Konstytucja i B. Banaszak, Konstytucja Rzeczypospolitej Polskiej, Komentarz, Art. 239*, p. 1011–13.

¹⁴ More in B. Banaszak, *Konstytucja Rzeczypospolitej Polskiej, Komentarz, Art. 239*, p. 1011–13.

2 April, 1997 did not authorise the Supreme Court or any other body to make this kind of interpretation. Currently, there is no legal institution in Poland which could make a legal interpretation. The Supreme Court was only equipped in the right to resolve the discrepancies in the interpretation of law revealed in the judgments of common courts of law, military courts, and the very Supreme Court. This competence was granted not by virtue of the constitutional provisions, but based on art. 60 of the law.¹⁵ The petition for a resolving of these kinds of discrepancies may be presented to the Supreme Court by the First President, Ombudsman, Public Prosecutor General, and within their jurisdiction the President of the Insured and the President of the Polish Financial Supervision Authority. These cases are considered by a panel of seven judges. Moreover, if the Supreme Court considering cassation or another appeal measure will have doubts about the interpretation of law, they may adjourn the case and present the legal issue for consideration by the panel of seven judges. When, however, the panel of Supreme Court judges decides that the presented issue needs explanation and the discrepancies in the law interpretation need resolving, they adopt a proper resolution (Art. 61 §1 of the Law). If it is of key significance for judicial practice or serious doubts justify it, the panel of seven judges may present the petition for resolution to the relevant chamber and the chamber to another two chambers or the full panel of the Supreme Court. The resolutions of the Supreme Court, chamber or a few chambers become enforceable at the moment they are made. Also, the panel of seven judges may give the force of legal principle to the resolution.¹⁶

Resolving discrepancies is not tantamount to the legal binding interpretation. Legal principles are not currently binding on other adjudicating panels of the Supreme Court or common courts of law, unless they were made in order to resolve a certain legal issue – they are binding on the court if it turned to the Supreme Court for a resolution of this kind. This means that non-compliance of the court judgment with the legal principles of the Supreme Court does not constitute the reason to appeal.¹⁷

When writing about legal interpretation in Poland, the amendment to the Voting System from 2006 should be remembered which included

¹⁵ Act of 23 November 2002 on the Supreme Court (J. Of Laws No. 240, item 2052 with amendments).

¹⁶ It is possible to derogate from the legal principle by way of chamber resolution, and in the case of derogating from the chamber resolution by way of decision of the relevant chamber, combined chambers or the full panel.

¹⁷ See resolution of the Supreme Court of 5 May, 1992, OSNC 1993, No. 1–2, item 1.

Art. 14A-p¹⁸ in the law. This amendment introduced the instrument of individual tax interpretations. Each person may turn to the Minister of Finance with a request to make an interpretation of a specific tax provision, and also the statutory one. The interpretation given by the Minister of Finance is binding on the tax authority, but not on the citizen who may not adhere to it. The interpretation is not binding on courts, either so despite the fact that “it contains elements of doctrinal or even legal interpretation when juxtaposed with the operative interpretation” it does not constitute legal interpretation but only official help.¹⁹

To conclude this part of the article I would like to return to the Constitutional Tribunal itself as well as the so-called interpretative judicial decisions affirming the conformity or inconformity of the provisions of a law (“regulation X is/is not in conformity with regulation Y of the Constitution in understanding Z”) and signalling decisions on statutes and judgments on part of a claim determining conformity or inconformity of the regulation of a law (“regulation X is/is not in conformity with regulation Y of the Constitution within scope Z”). The traditional, dichotomous (in conformity/not in conformity with) division of the judgments of the Tribunal appeared with time insufficient. Professor Czeszejko-Sochacki’s proposal, subsequently confirmed in the doctrine, was to extend this classical model by another, complex classification with those affirming constitutionality conditionally (interpretative judgments) and those affirming unconstitutionality “in the scope of...”²⁰ Although their connections with earlier interpretative judgments of the Tribunal are of a definitely more nomenclatural nature than substantial (the basic difference between these two types of judgments is that in interpretative resolutions the solution of the interpretative problem made the essence of this type of judgment whereas interpretative judgments decide on, foremost, a derogation problem if the legal regulation subject to the Tribunal’s control is constitutional), discussions on these expressions that emerge (objection of judicial circles) are a vivid exemplification of the difficulties which the already mentioned desire to restore the interpretative competence of the Polish Constitutional Tribunal, appearing in the doctrine, may face.

¹⁸ Resolution of 16 November, 2006 on amendment to the statute – Tax Ordinance and on the amendment of some other statutes (J. Of Laws No. 217, item 1590).

¹⁹ Commentary to Art. 14(a) of the Law from 29 August, 1997 Tax Ordinance (J. of Laws 05.8.60), [in:] C. Kosikowski, L. Etel, R. Dowgier, P. Pietrasz, S. Presnarowicz, M. Popławski, *Ordynacja podatkowa. Komentarz*, LEX, 2009, edition III.

²⁰ For more see: D. Nowicki, *Miejsce orzeczeń interpretacyjnych w orzecznictwie Trybunału Konstytucyjnego*. Państwo i Prawo 2012, no. 10, p. 48+.

It is time to take a closer look at the solutions adopted in other countries of our region. The size of this paper does not allow for a specific presentation of the proposed solutions but only options possible to select on particular examples. In the majority of countries Kelsen’s model of control over the constitutional character of the law has been adopted. It means that when deciding about the establishment of legal interpretation of law, the constitution-giver could also elect the constitutional court, apart from the bodies of the traditional separation of powers. In practice, just like in the Poland of the 1990’s the selection was limited to two bodies: the Supreme Court and constitutional court.

The continental model of constitutional control is not an obstacle to entrusting the constitutional court with other, specific competences rather than examining the compliance of law with the Constitution. Part of “other” competences seems to be natural and overlaps with the constitutional judiciary, such as for instance resolving competence disputes.²¹ They are a kind of “offset” from the constitutional control, or another competence leads to the judicial control over the constitutional control of law.²² It seems that making an interpretation of constitutional provisions and statutes may be included in this group of competences. It may be argued that this kind of activity of the Tribunal, which is not examining the constitutional character of law in the form of preventive or consecutive control, serves the protection of superiority of constitutional provisions.²³ However, the situation with making interpretations of ordinary statutes does not appear to be so clear. It does not obviously mean that it is unacceptable. We may allow for a number of reasons for this competence of the Constitutional Court, including: guarantee of adherence to constitutional principles, including the functioning of the separation of powers; or an institution of public trust, creating special conditions for making impartial and reliable decisions. Also, there is a certain consistency in the competences granted. Since the constitutional court makes the governmental interpretation of constitutional provisions, its interpretation of the statutes, made from the point of view of the Constitution is all the more acceptable. The legal system that emerges is unambiguous, orderly and hierarchical.

This kind of burden on the constitutional court may pose a threat defined by L. Favoreu as “downgrading control over the constitutional char-

²¹ Compare L. Garlicki, *Sądownictwo konstytucyjne w Europie Zachodniej*, Warszawa 1987, p. 173 and next.

²² See M. Granat, *Sądowa kontrola konstytucyjności prawa w państwach Europy Środkowej i Wschodniej*, Warszawa 2003, p. 245.

²³ *Ibidem*, p. 246.

acter of law”, where constitutional courts deal with resolving all possible disputes as the highest instance court.²⁴ In this situation it is the decision of the constitution-maker whether full protection of the constitution is worth bearing this risk. In the literature on the subject we can find, as it seems, the justified view that this kind of burden on the tribunals in young democracies confirms the development of constitutional judicature and what is more “the will to build democratic traditions”.²⁵ Hence, the official power to make an interpretation by the constitutional courts turns out to be a popular solution in the discussed countries of Central and Eastern Europe.

According to Art. 147 of the Constitution of Ukraine of 28 June, 1996 the Constitutional Court of Ukraine decides about the compliance of statutes and other legislation with the Constitution of Ukraine which, based on Art. 150 of the Constitution, are judgments subject to enforcement in the whole territory of Ukraine, final and not subject to appeal.²⁶ The decisions about the official interpretation are made at the request of: the President, at least forty-five deputies, the Supreme Court, the Human Rights representative of the Supreme Council of Ukraine, the Supreme Council of the Autonomous Republic of Crimea (Art. 150 of the Constitution) as well as a citizen of Ukraine, a foreigner, a stateless person and a legal person. It should be noted that the constitutional court is not an institution of the judicature, but an independent, separate body of constitutional judicature in Ukraine. In the earlier legal status the interpretation was made by the Supreme Council of Ukraine, often accused of ambiguity.²⁷ What is emphasized in the commentaries is the congruent line of the constitutional judgments.

Also, the Albanian constitution-maker decided to grant the right of making an interpretation to the constitutional court, restricting it, by virtue of Art. 124 of the Constitution, to the interpretation of constitutional provisions.²⁸ The Constitutional Court of Albania gained another competence at the moment of appointment, that is in 1991, so by virtue of the previous legal order. The judgments concerning the interpretation of the Constitution

²⁴ M. Granat, Zakres kompetencji sądów konstytucyjnych państw Europy Środkowej i Wschodniej w „innych sprawach”, *Przegląd Sejmowy* 2001, no. 4(45), p. 127.

²⁵ *Ibidem*.

²⁶ *Konstytucja Ukrainy, wstęp i tłumaczenie* E. Toczek, Warszawa 1999, p. 84.

²⁷ P. A. Czeberjak, *Stattija 148*, (in:) *Komentar do Konstytuciji Ukrainy*, (ed.) M. T. Krawczuk, Kyjiw 1998, p. 360.

²⁸ *Konstytucja Republiki Albanii z 21 października 1998 r.*, Tłum. D. Horodyska, E. Lloha, Wstęp W. Milanowski, Warszawa 2001, p. 69.

have a commonly binding and final character (Art. 132 of the Constitution) The right to file a petition for the interpretation is vested in the President, the Prime Minister, 1/5 of the deputies, the President of the Supreme State Control, common courts of law, bodies of local government, bodies of religious communities, political parties, and other organisations and private individuals. The Tribunal is situated outside the structure of the judicature.

The amended Art. 128 of the Constitution grants *expressis verbis* the right to make an interpretation of the Constitution or a Constitutional Act to the Constitutional Court (the first version of the Constitution did not provide for these powers).²⁹ Judgments passed by the full panel, pronounced in the mode reserved for statutes, are binding on all bodies of public authority, natural, and legal persons from the date of their publication. The petition on the interpretation may be submitted by 1/5 of the deputies, the President, government, court and general prosecutor (Art. 130 of the Constitution). In this way the Czechoslovakian solution was not continued, where the interpretation was made by the Supreme Court, but the provisions of 1991 were copied granting these powers to the Federal Constitutional Tribunal, just at the end of Czechoslovakia.³⁰ Besides, the Czech Republic did not also copy the system from the times of Czechoslovakia, currently not indicating any institution entitled to make an official interpretation of the law.

It is also the Constitutional Court of the Russian Federation that has the right to make an interpretation.³¹ It does so exclusively at the request of the President, Federation Council, State Duma, government and bodies of the legislature of the Russian Federation. This interpretation is commonly binding, legislation passed based on the provisions interpreted contrary to the interpretation of the Tribunal are subject to review, and the very interpretation may be the reason for abrogating decisions earlier made. The powers of the Russian Supreme Court are much smaller. Its task is merely to explain issues related to judicial practice.

Based on Art. 149 section 1 point 1 of the Constitution it is also the Constitutional Court of Bulgaria that decides about the commonly binding interpretation of the Constitution.³² It is performed “taking into consideration the context of the constitutional state and the precedence of the

²⁹ Konstytucja Republiki Słowackiej, Tłum. I wstęp K. Skotnicki, Warszawa 2003, p. 89.

³⁰ See. M. Granat, Sądowa.. (op. cit.), p. 203.

³¹ See Art. 125 section 5 of the Constitution of Russian Federation of 12 December 1993, transl. by A. Kubik, introduction by A. Bosiacki, Warszawa 2000, p. 79.

³² See. J. Karp, M. Grzybowski, System Konstytucyjny Bułgarii, Warszawa 2002, p. 73. more on judgments of the Bulgarian Tribunal in M. Granat, Sądowa.. (op. cit.), p. 201.

Constitution” as well as determining the limits of this right “not containing creating rules of a political or political-moral nature”. Moreover, the tribunal does not create rules whose sources are in the political practice, the political tradition, and the culture of society, making a reservation that its interpretation is independent from the laws in a particular matter passed by the parliament.³³

The Hungarian Constitutional Tribunal remained entitled to make an interpretation of the Constitution. Just like before the current Constitution came into force in 2011 this competence is to be found in the provisions of the organic law on constitutional tribunal passed based on Art. 25 section 5 of the Constitution.³⁴ The Tribunal makes an official interpretation of the provisions of the Constitution at the request of parliament, parliamentary commission, president or government. The Supreme Court guarantees the cohesion of the law administration by courts, by giving decisions in the matter binding on courts.³⁵

Another group are countries which, despite the existence of a constitutional court, have not been granted the competence of official interpretation of the law whose beneficiary, to a varied extent, became the Supreme Court.

In the first place it is important to name the supreme court of Romania or the High Court of Cassation and Justice modelled on the French Court of Cassation, which is expected to secure uniform application of the provisions of law by other courts as well as coherent and uniform interpretation of the provisions of law.³⁶ The basic procedure to achieve this goal is a procedure including the so-called “means of challenge in the interest of law”. Judgments in this case are taken in an extraordinary composition of the President of the Tribunal (or his deputy), presidents of chambers, 14 judges of the chamber subject to whose jurisdiction the particular case is, and two judges from each of the remaining chambers. The judgments published in the Official Journal of Romania are binding for all judges nationwide. These questions have been regulated, just like in Hungary, outside the text of the Constitution, in the Organic Law.³⁷

³³ As in: M.Granat, *Sądowa...* (op. cit.), p. 201.

³⁴ Art. 38 of the organic law on Constitutional Tribunal, (2011. évi CLI. Törvény az Alkotmánybíróságról) za <http://www.mkab.hu/rules/act-on-the-cc> of 20 October, 2012.

³⁵ Art. 25 of the Constitution of Hungary from 25 April 2011, transl. by J. Snopek, introduction by W. Brodziński, Warszawa 2012, p. 86.

³⁶ W. Brodziński, *System Konstytucyjny Rumunii*, Warszawa 2006, p. 56

³⁷ Law no. 304 2004 of 28 June 2004, on Judicial Organisation. As in: <http://pl.scribd.com/doc/68736384/LAW-304-2004> of 23 October 2012.

However, it is important to note the historical circumstances of this system. The Court of Cassation and Justice, working before the war, by force of the Constitution of 28 March 1923 had also the competences of a limited constitutional court – issuing judgments with a binding force *inter partes*. After the war constitutional control was exercised by the Constitutional Commission of the National Assembly, the composition of which included also specialists from outside the circle of deputies. The Constitutional Court launched in 1992 was granted with the competence formerly exercised by both judicial and legislative systems. The constitution-maker did not decide to the cession of another entitlement of the High Tribunal (then working as the Supreme Court of Justice) which was providing interpretation of law and securing the application of uniform regulations.

The government of Romania, or the High Court of Cassation and Justice, which is to ensure the cohesive administration of legal provisions, should be mentioned here in the first place.³⁸ These issues have been regulated, just like in Hungary, outside the body of Constitution, in the organic law.³⁹

The Macedonian lawmaker did not decide to grant the right to make an official interpretation to the Constitutional Tribunal, and awarded the function of ensuring cohesion in the application of statutes by courts (Art. 101), which should be understood as a competence of making a cohesive interpretation of the statutes.⁴⁰ Likewise, the task of Lithuanian high courts – that is, the Supreme Court and the Supreme Administrative Court – is to create a coherent judicial practice with respect to the application of the statutes (Art. 23 and 31 of the Law on Courts respectively).⁴¹ The interpretation of provisions published in the Bulletin of the Supreme Court has a binding force on state bodies, including courts and private individuals.

Also, the Supreme Court of Croatia strives to ensure a cohesive application of statutes and ensures equal treatment of citizens in court proceedings.⁴²

A similar, although not identical solution has been adopted in the Republic of Slovenia. Slovenia has an individual, specific model of legal interpretation. With its Constitutional Court, it is the Supreme Court that is

³⁸ W. Brodziński, *System Konstytucyjny Rumunii*, Warszawa 2006, p. 56.

³⁹ Law from 28 June, 2004 on the organisation of courts, No. 304/2004. <http://pl.scribd.com/doc/68736384/LAW-304-2004>, of 23 October 2012.

⁴⁰ *Konstytucja Republiki Macedonii*, Tłum. T. Wójcik, Wstęp. J. Jackowicz, Warszawa 1999, p. 16.

⁴¹ Compare <http://www.lat.lt/en/> of 17 October, 2012.

⁴² J. Karp, M. Grzybowski, *System Konstytucyjny Chorwacji*, Warszawa 2007, p. 66.

supposed to take care of the cohesion of law application, which also means a competence to make an official interpretation of statutes. On the other hand, the Constitutional Court may make a binding interpretation of the provisions in accordance with the Constitution, which will allow for confirming its compliance with it in the procedure of constitutional control.⁴³ These judgments are binding *erga omnes*, so they also bind other courts, including the Supreme Court. The Constitutional Court, in turn, may also make an interpretation of the provisions in the course of procedure of scrutinizing the constitutional character of law. This interpretation also has a binding force, but the non-compliance with it by common courts of law or other bodies of public authority does not entail any formal sanctions.⁴⁴

In this way we can summarise the existence of a few solutions in the countries of our region. The first one is granting the Constitutional Tribunal the right to make an interpretation of the Constitution, constitutional statutes and ordinary statutes. An example of this regulation is Ukraine, but it should be remembered that this is a rare model. Another solution, probably the most popular one, is granting the tribunal the right to make an interpretation of the constitution and constitutional laws. Guaranteeing the right to make an interpretation to constitutional courts is connected with a detailed regulation already at the level of the Constitution.

The third group is composed of the countries which, despite the existence of a constitutional court, have granted it to the Supreme Court. This model is not very popular, either. The fourth possibility are the countries which, like Poland, do not envisage the existence of a body making a legal interpretation of the law. The Czech Republic is one of them as there is no such organ there, either. However, quite a frequent solution is the one between the third and the fourth; that is, granting courts a certain, limited scope of interpretation, serving the purpose of ensuring a cohesive law application and a coherent line of judgments.

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⁴³ Report of the Constitutional Court of the Republic of Slovenia, The relations between the Constitutional Courts and the other national courts, including the interference in this area of the action of the European courts, Conference of European Constitutional Courts XIIth Congress, 14–16 May 2002, s. 24, za <http://www.confcoconsteu.org/reports/rep-xii/Slovenia-EN.pdf> of 17 October 2012.

⁴⁴ *Ibidem*, p. 25.