

## Table of contents

Explanation of abbreviations .....	7
Introduction.....	9

### Chapter I

#### **The Constitutional Tribunal as an Authority for Protection of the Constitution and Individual Rights**

1. The genesis of constitutional court. Legitimacy of constitutional tribunals in a democratic state .....	11
2. Models of constitutional court .....	21

### Chapter II

#### **The Constitutional Position of the Constitutional Tribunal**

1. The origins and evolution of the Constitutional Tribunal in Poland .....	33
2. The Constitutional Tribunal in the Constitution of 1997 .....	41
3. Organization of the Constitutional Tribunal .....	49
3.1. Composition.....	49
3.2. Status of Tribunal judges .....	52
3.3. Bodies of the Constitutional Tribunal.....	55
3.4. The Office of the Constitutional Tribunal.....	57

### Chapter III

#### **Examination Procedure of Hierarchical Conformity of Legal Regulations (norms)**

1. Rules of procedure .....	61
1.1. The principle of disposition .....	62
1.2. The principle <i>falsa demonstration non nocet</i> .....	63

1.3. The principle of the burden of proof.....	65
1.4. The adversarial principle .....	66
1.5. The principle of single-instance.....	68
1.6. The principle of collegiality.....	68
1.7. The principle of transparency .....	70
2. Appropriate application of the Code of Civil Procedure .....	70
3. Types of proceedings .....	73
3.1. Adjudicating on constitutionality and legality of legal norms .....	75
3.1.1. Application .....	75
3.1.2. Constitutional complaint.....	81
3.1.3. Legal question (question of law) .....	99
4. Stages of proceedings before the Constitutional Tribunal .....	104
4.1. Preliminary proceedings .....	105
4.2. Examination proceedings (at the hearing) .....	110
4.3. Adjudicating.....	116

#### Chapter IV Specific Proceedings

1. Adjudication on the constitutionality of purposes and activities of political parties .....	124
2. Resolving competence (power) disputes between central constitutional state authorities .....	132
3. The remaining functions of the Constitutional Tribunal: adjudicating on a temporary incapability of the President to hold the office and a signaling function.....	138
Concluding observations.....	141
Bibliography .....	149
Appendices.....	159