

Summary of the doctoral dissertation

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PARTICIPATION OF THE COUNCIL OF MINISTERS AND THE PRIME MINISTER IN THE PROCEEDINGS BROUGHT BEFORE THE CONSTITUTIONAL TRIBUNAL

The aim of the doctoral dissertation was to present the participation of the Council of Ministers and the Prime Minister in the proceedings before the Constitutional Tribunal. The analysis included the formal basis, arising from the provisions of the Constitution and bills as well as the acts internally binding for the Prime Minister and the Council of Ministers, and the practice of operating on all stages of the said proceedings. On the basis of the law currently in force the dissertation demonstrates entrenched institutions, such as the right of the Prime Minister to initiate abstract control of the legal norms and to initiate the disputes over authority or the right of the Council of Ministers to state its opinion as to the fact whether the judgement of the Constitutional Tribunal may have financial consequences not provided for in the State Budget or in the Interim Budget. So defined competences were presented against legal institutions which are not in force anymore, such as the right to refer a question of law to the Constitutional Tribunal by the supreme and central state authorities or making an application regarding generally binding interpretation of law or re-examination of the case already ruled upon by the said constitutional court. The conclusions of this analysis gave a rise to a thesis that firstly, participation of the Council of Ministers and Prime Minister in the proceedings before the Constitutional Tribunal had dynamically evolved, and secondly, today has significantly diminished.

Another thesis drew from the analysis claims that the Council of Ministers should be obligatory participant in the proceedings before the Constitutional Tribunal and therefore gains the possibility to influence the said process, due to the position of the Council of Ministers in the system, its role in the State of both creative and executorial nature, leading the governmental administration with most complex organisational structure (and hence with the substantive support), having the reference data at hand, the ability to use of the right to introduce legislation whenever it seems fit, to estimate the financial costs of different potential legal solutions or to determine the calendar of prospective changes in the legal system.

In the dissertation the special emphasis was given to the manner, in which the judgements of the Constitutional Tribunal are carried out and how new solutions are monitored. This gave rise to the thesis that it is the Council of Ministers which plays the key role in carrying out the judgements of the Constitutional Tribunal, mainly due to its position in the system and basically unlimited (even exclusive in some cases) right to introduce legislation. Instruments to influence the actions of the Government given to the Prime Minister described in this dissertation,, allow not only to optimise the governmental legislative procedure, but also to effectively verify, correct and enforce the realisation of the planned actions and influence the text of the drafted regulation, required also by the Constitutional Tribunal.

It was also proven, that providing information on the law (including the judgements of the Constitutional Tribunal and their effects) is viewed by the Government as a duty and condition of effective creation of legislation. Actions undertaken by the Government in connection with creating and operating of the databases useful for the citizens leads to the conclusion that even in this filed the Council of Ministers is the key player.

During the analysis of the role of the constitutional authorities named in the title of the dissertation, main attention was given to the judgements given by the Constitutional Tribunal in which proceedings were either initiated by or conducted within the presence of the Prime Minister or the Council of Ministers (or, in some part, the members of the Council of Ministers) and the judgements where the said authorities were responsible for the enforcement of the rulings of the Constitutional Tribunal. In order to reach the said aim, it was essential to analyse the proceedings brought before the Constitutional Tribunal, in which these authorities were participants, starting from the rulings given in 1986 and finishing with the ones given in the present day.