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CONSTITUTIONAL COURTS – POLAND AND EAST-CENTRAL EUROPE

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Summary. After the Second World War, the countries of Central and Eastern Europe were under the influence of the systemic solutions imposed by the USSR. Their constitutional systems were non-democratic systems based on one ideology and the monopoly of one party. The imposed political and socio-economic system concerned all spheres of the individual's life, changed the social structure and economic system. It was only his fall that opened the way to building a new regime, this time a democratic one. In individual countries, these changes took place differently – from reform efforts to almost revolutions. At the same time, transformation processes began, ending with the adoption of the constitution. The new constitutions contained, among others regulations regarding basic human and civil rights and freedoms, whose protection also requires institutional and procedural security. A special role in securing these rights is the judicial system in a given state, and it is not only about common and administrative courts, but also the constitutional judiciary. The article presents the formation of constitutional judiciary in

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selected countries of Central and Eastern Europe, the scope of their competences and the way they function.

Keywords: constitutional courts; Poland; Central and Eastern Europe.

Sądy konstytucyjne w Polsce i Europie Środkowo-Wschodniej. Po II wojnie światowej państwa Europy Środkowej i Wschodniej pozostawały pod wpływem narzuconych przez ZSRR rozwiązań ustrojowych. Ich systemy konstytucyjne były systemami niedemokratycznymi, opartymi na jednej ideologii oraz na monopolu jednej partii. Narzucony system polityczno-społeczno-gospodarczy dotyczył wszystkich sfer życia jednostki, zmieniał strukturę społeczną oraz system ekonomiczny. Dopiero jego upadek otworzył drogę do budowania nowego ustroju, tym razem demokratycznego. W poszczególnych krajach zmiany te zachodziły różnie – od działań reformatorskich po niemalże rewolucje. Jednocześnie zaczęły się procesy transformacyjne, kończące się uchwalaniem konstytucji. Nowe konstytucje zawierały m.in. unormowania dotyczące podstawowych praw i wolności człowieka i obywatela, których ochrona wymaga również zabezpieczenia instytucjonalnego i proceduralnego. Szczególną rolę w zabezpieczeniu tych praw stanowi system sądownictwa w danym państwie i nie chodzi tu tylko o sądownictwo powszechne i administracyjne, ale także sądownictwo konstytucyjne. W artykule przedstawiono kształtowanie się sądownictwa konstytucyjnego w wybranych państwach Europy Środkowej i Wschodniej, zakres ich kompetencji oraz sposób funkcjonowania.

Słowa kluczowe: sądy konstytucyjne; sądownictwo konstytucyjne; Polska; Europa Środkowa i Wschodnia.

1. DEVELOPMENT OF CONSTITUTIONAL COURTS

The constitutional systems of the countries of Central and Eastern Europe, built after the Second World War, were non-democratic systems with the ideologized monopoly of a single political party. The imposition of the communist system caused a fundamental change in the social structure and economic system. Their disintegration after nearly fifty years of life made it impossible to return to the state before 1939. The construction of new constitutional systems was based, however, on common goals – the formation of democracy and free market economy, but the paths to achieve them were different. They were determined by new political forces, as well as earlier constitutional traditions. The diversity of ways to achieve the goals was mainly connected with their peaceful character¹. In the

¹ An exception is the Romanian example. This was the result of the events of December 1989, as a result of which the dictatorship of N. Ceaușescu was overthrown. At that time there was a real rejection of the current constitution, although its formal repeal took place on 21.11.1991.

late years of the communist regime, representatives of the reformist forces came to the leadership of the party in the Eastern Bloc countries. They perceived the necessity of starting talks with representatives of social and political movements and reaching a compromise with the current opposition. For this purpose, talks were held for the so-called round tables talks². The beginning of the evolutionary path of change, taking under consideration their purpose, did not determine their duration. There was a necessity for the existence of the so-called period of systemic transformation of old and new solutions. The old order was replaced gradually with new ones.

In some parts of post-communist countries new constitutions were enacted (eg Bulgaria, Romania). In countries with more advanced transformation processes, the fundamental laws enacted in the previous regime were in force for a long time. This was the case in Czechoslovakia until the adoption of the constitution of two sovereign states – 1.09.1993 – the Constitution of Slovakia and 16.12.1992 the Czech Constitution.

In Poland, actions were taken at the time to give the new constitution a democratic legitimacy. In order to achieve this goal, the so-called Small Constitution was to be adopted in 17.10.1992 and the previous constitution of 1952 would be repealed. Some of the provisions of the 1952 constitution received a new legitimacy from a democratic parliamentary election. The need to adopt a new constitution was still alive which led to the adoption of a new one on 2.04.1997. In Hungary, however, a completely new constitution was enacted only on 18.04.2011³.

The processes of constitutional change have highlighted the problem of systemic references and patterns for transformed and created institutions. It can be assumed that they were based on three assumptions: negation, continuation and reception. Negation stemmed from opposition to earlier institutions and constitutional principles. The continuation was a reference to the domestic political traditions before World War II and, after all, the use of some of the doctrine of the socialist legal period. The reception became apparent in the borrowing of principles and systemic solutions characteristic of the democratic states of the western countries. This primarily concerned human rights and freedoms and their guarantees, as well as the system of government. The three conditions indicated allowed the replacement of the constitutional principles applicable to the states of real socialism with the universal principles of the democratic state. Although the scope and intensity of the negation, continuation and reception were not uniform in all countries, each of them included democratic

² E.g. Poland and Hungary.

³ Until then, the constitution of 1949 was amended several times.

standards and western standards in order to adopt new constitutions and build new ones.

International commitments and own (national) regulations proclaimed a broad catalog of fundamental human and civil rights and freedoms. Only their establishment in the law would constitute a legal reminder. Therefore, in addition to the proper constitutional guarantee system, the protection of human and civil rights and freedoms is based on institutional and procedural guarantees, which are largely available to individuals. It needs to be emphasized here that the proper legal system for each legal order, of which the universal, administrative and constitutional courts plays a special role.

2. REPUBLIC OF ESTONIA

The Supreme Court in the fulfillment of the constitutional jurisdiction of the court provides a ruling on the applications for a declaration of conformity with the Constitution, generally applicable normative acts and cases of refusal of such acts, as well on the applications to verify the conformity of international agreements with the Constitution. The Supreme Court shall also cover the cases issuing an opinion on the interpretation of the Constitution in connection with European Union law. The Supreme Court was also entrusted with the recognition of proposals for resolutions and complaints on the resolution of the Estonian Parliament, the Bureau of Parliament and the President of the Republic. The Supreme Court, as a constitutional court, rules on the application for a declaration of unsuitability of MP, President of the Republic, the Chancellor of Justice or the Auditor to perform the obligations in the long term. Its properties shall also comprise ruling on the revocation of a deputy's mandate. Among its competencies it is also necessary to identify to ability to issue the provisions concerning granting consent to the President of Parliament, acting as the President of the Republic, to announce early elections or refuse to grant consent to the announcement of the act. The Supreme Court recognizes the proposals to ban political parties, complaints and protests against decisions and actions of election commissions.

The Chief Justice of the Supreme Court is appointed by the Riigikogu at the request of the President of the Republic. Members of the Supreme Court are appointed by the Riigikogu at the request of the Chief Justice of the Supreme Court and other judges are appointed by the President of the Republic at the request of the Supreme Court.

The Ministry of Justice, together with The Council for Administration of Courts is responsible for the administration of courts of first and second instance.

The Council for Administration of Courts is an advisory body established for the purpose of ensuring the proper functioning of the judicial system. Its work is directed by the President of the Supreme Court. The activities of courts of the first and the second instance are financed from the state budget, through the budget of the Ministry of Justice. The Supreme Court shall be independent in the conduct of its own administration and has its own budget.

The Council for Administration of Courts is composed of the Chief Justice of the Supreme Court (who also acts as the chair of the Council), five judges appointed for three years by all judges, two Members of the Estonian Parliament, an attorney appointed by the board of the Bar Association, the Chief Prosecutor or a public prosecutor appointed by him, the Chancellor of Justice or a representative appointed by him and the Minister of Justice, or a representative appointed by him, who participates sessions and has the right to speak. Even though the Minister of Justice may convoke sessions, he has no right to vote.

The jurisdiction of the Council for Administration of Courts shall embody determining the territorial jurisdiction of all courts, their structure, location of courts and courthouses, the number of judges working in courts and courthouses as well as the number of lay judges. What is more, the Council for Administration of Courts shall appoint chairpersons of courts to office as well as release them, set out internal rules, determine the number of possible candidates for an office, additional remuneration for judges and lay judges.

Furthermore, The Council for Administration of Courts shall prepare preliminary opinions on the principles applied in the preparation and revision of annual budgets of courts, give an opinion on candidates for a position in the Supreme Court as well as an opinion on the release of a judge. The Council is also responsible for discussing the review on court administration, administration of justice and the uniform application of law and any other issues which are an initiative of the Chief Justice of the Supreme Court or the Minister of Justice.

3. REPUBLIC OF LATVIA

According to the Article 85 of the Constitution of the Republic of Latvia the Constitutional Court was created, which in the context of the powers specified in the law deals with matters concerning the conformity of laws with the Constitution as well as other matters provided by law to its competence. The Constitutional Court has the competence to declare the loss of binding force of laws and other normative acts or their parts. Judges of the Constitutional Court

judges shall be appointed by the Saeima in a secret voting, with majority of at least fifty-one votes for the period of time specified in the Act.

Status and tasks of the Constitutional Court are determined by the law on the Constitutional Court. Its competence is to rule on the conformity of laws and other normative acts with the Constitution. The Constitutional Court comprises 7 judges approved by the Saeima for a ten-year term. However it is unacceptable to hold the office for a longer period of time.

The judges of the Constitutional Court shall elect, from among themselves in a secret voting the President and the Vice-President for the term of three years. The judges of the Constitutional Court cannot be dismissed before the end of the term of office, unless their state of health does not allow them to perform duties properly, a court judgment issued against the more they have committed acts unworthy of a judge.

The Constitutional Court should recognize in plenary session cases concerning such issues as the constitutionality of laws, regulations and other legal acts of the Cabinet of Ministers of the Republic of Latvia, the compatibility of Latvian national legislation with the Constitution, conformity with the Constitution of international agreements signed or ratified by Latvia (until they are approved by the Saeima – the Latvian Parliament) as well as other acts and regulations and their parts. All other matters are recognized by the Chamber composed of three judges, unless the Constitutional Court decides otherwise.

What is more, the judgments of the Constitutional Court are final and legally binding from the moment of their announcement. The judgments of the Constitutional Court and its interpretation of the proposed provisions are binding for all organs of government administration and local government (including the courts) and officials, as well as for natural persons and legal entities. Each legal provision which was found to be inconsistent with another standing higher in the hierarchy of legislation legal provision is considered void from the date of publication of the judgment of the Constitutional Court, unless the authority decides otherwise.

In the event of the Constitutional Court stating lack of constitutionality of an international agreement signed or ratified by Latvia, the Cabinet of Ministers is obliged to take immediate action in order to introduce amendments to the agreement, denunciate or withdraw from the agreement.

According to the Law on the Judicial Power the Ministry of Justice is the highest judicial body responsible for court administration. It shall issue internal regulations on the management of the district/city courts, regional courts as well as land registries. The Ministry is also equipped with competence to apply to those courts to submit the information necessary to carry out its statutory tasks as well as responsible for carries out audits.

Finally it is necessary to mention the Courts Office, which arranges the performance of district and city courts, regional courts and land registry offices. The Courts office works under the Minister for Justice, who on the other hand acts through the Ministry of Justice. On the other hand, the Judicial Council, as a collegiate body is responsible for the development of strategy of the judiciary and improving the organization of work of the judicial system as well as creating balance between executive power, judicial power and legislative power.

4. REPUBLIC OF LITHUANIA

The Constitutional Court of Lithuania monitors the constitutionality of the law. The Court consists of 9 judges appointed for nine years, designated by the Parliament, the President and the President of the Supreme Court. Every 3 years the one third of the Constitutional Court is renewed. Against the Constitutional Court judges shall also apply restrictions of employment and political activities provided for judges.

Although – as the name suggests – it is a „court”, but a different „court” than other state courts of the Republic of Lithuania. The Constitutional Court of Lithuania is not a component of the overall judicial system. There is no organizational and regulatory links between the court and the courts of general competence and, above all, the Constitutional Court – unlike other state courts – does not exercise justice.

The Constitutional Court shall consider and decide whether the laws and other acts adopted by the Parliament are not inconsistent with the Constitution of the Republic of Lithuania.

The Constitutional Court shall also review and consider whether the acts of the President of the Republic and the acts of the Government of the Republic are inconsistent with the Constitution or laws. Properties of the Constitutional Court shall also include issuing opinions whether during the election of President of the Republic or the members of the Parliament electoral law was not breached; if the state of health of the President of the Republic allows him to continue to perform the duties; if the international agreements of the Republic of Lithuania are not in conflict with the Constitution and whether the members of the government and the officers, against whom the legal proceedings have been taken, violated the constitution by their specific actions. The Constitutional Court does not rule on the compatibility of international agreements with the Constitution. This prerogative would be, however, consistent with the general character of the Constitutional Court and the very essence of constitutional supervision.

Decisions of the Constitutional Court are final and are not subject to appeal.

5. REPUBLIC OF POLAND

According to the constitutional regulation the Constitutional Tribunal consists of 15 judges chosen individually by the Sejm for nine years from among persons having an exceptional knowledge of law. Re-election the Court is unacceptable. When it comes to the President and Vice-President of the Constitutional Tribunal, they are appointed by the President of the Republic from the group of candidates proposed to him by the General Assembly of Judges of the Constitutional Tribunal (art. 194 of the Constitution).

The judges of the Constitutional Tribunal shall be independent and subject only to the Constitution in the exercise of their office. In addition, the judges of the Constitutional Tribunal should be ensured with the proper working conditions and remuneration consistent with the dignity of their office and the scope of their duties. What is more, the judges of the Constitutional Tribunal are apolitical, i.e. during the period of occupancy they shall not belong to a political party, trade union or perform public activities incompatible with the principles of independence of courts and judges.

Judges shall have immunity, which means they cannot be, without the prior consent of the Constitutional Tribunal, held criminally responsible nor deprived of liberty. A judge cannot be detained or arrested, except in flagrante delicto, if his detention is necessary for securing the proper course of proceedings. The detention shall be immediately communicated to the President of the Constitutional Tribunal, who may order an immediate release of the detainee.

The Constitutional Tribunal shall have jurisdiction to rule in such issues and cases as:

- 1) the conformity of acts and international agreements with the Constitution,
- 2) the conformity of acts with ratified international agreements whose ratification required prior consent granted by act,
- 3) compliance of legal provisions issued by central State organs with the Constitution, ratified international agreements and acts,
- 4) compliance of the purposes or activities of political parties with the Constitution,
- 5) the constitutional complaint.

Moreover, the Constitutional Tribunal shall settle disputes over authority between central constitutional organs of the State. Decisions of the Constitutional Court are made by the majority of vote, shall be universally binding and final. Any court may introduce to the Constitutional Tribunal a question of law as to the conformity of a normative act with the Constitution, ratified international

agreements or act, if the answer to the question of law will determine an issue currently ongoing before the court.

6. THE CZECH REPUBLIC

Some historians say that the roots of constitutional judiciary in the Czech Republic can be found as far back as in the time of the Austrian monarchy – 1848. Even though this concept seems to be doubtful, it can be unquestionably assumed that the beginning of the constitutional judiciary in the Czech Republic falls in the year 1993, which brought a number of events related to the formation of modern constitutional judiciary, and to be even more exact – 1st January 1993. The Constitutional Court of the Czech Republic operates from 1st January 1993 on the basis of the Constitution of the Czech Republic of 16th December 1992. The Constitutional Court Act was passed on 16th June 1993 and the first Czech Constitutional Court judges took the oath on 15 July 1993 r. and subsequently on 26th July 1993 its first meeting was held.

The basic provisions concerning the functioning of the Constitutional Court are contained in articles 83 – art. 89 of the Constitution of the Czech Republic. In accordance with them, the Constitutional Court is the judicial organ of constitutionality protection. „Interestingly, both the constitution and very consistent Czech literature does not include the Court into the court system, though no doubt it remains a part of the judiciary. It can be even supported and justified by the inclusion of provisions on the Constitutional Court to the chapter << Judiciary >>, dedicated also to other courts”⁴. However, wide independence and a clear distinction in relation to other courts of this body can be noted⁵.

The Constitutional Court of the Czech Republic consists of 15 judges appointed by the President with the consent of the Senate for a 10-year term of office. Judge of the Constitutional Court must be of good character, have the right to be elected to the Senate, have higher legal education and at least 10 years of work experience in the legal profession. The judge starts performing his function at the moment of taking the oath in front of the head of state. In the case of not taking the oath of office, or doing so with reservations, the candidate does not become a Justice of the Constitutional Court. Performance of the judge cannot be combined with any other gainful activity. The exception is own property management, sci-

⁴ K. Skotnicki, *System konstytucyjny Czech*, Warszawa 2000, p. 53.

⁵ See M. Kruk, *Sąd Konstytucyjny Republiki Czeskiej*, [in:] *Sądy konstytucyjne w Europie*, vol. 2, ed. L. Garlicki, Warszawa 1997, pp. 65–89.

entific, pedagogical, artistic and literary activities, as long as such activity does not bring reproach to the function of a judge, its importance and dignity, as well as confidence in the independence and impartiality of adjudication. In regards to the judges of the Constitutional Court the possibility of membership in political parties and other organizations of a political nature is excluded.

Judge of the Constitutional Court cannot be prosecuted without the consent of the Senate and cannot be prosecuted for the committed offenses. He can only be arrested in the case of in flagrante delict or immediately after it. About a judge being arrested the competent authorities should immediately inform the President of the Senate and the detained person shall be released if, within 24 hours from arresting the President does not give a permission for an arrest. The judge may refuse to testify in cases where he exercised his functions, even if he ceases to be a judge of the Constitutional Court.

The President of the Constitutional Court represents the Court externally. What is more, he performs the Court's administrative work, calls meetings of the Constitutional Court's Plenum, fixes the agenda for meetings, appoints President of the Constitutional Court's panels and performs other duties placed upon him by statute.

The provision of Article 63 of the Constitutional Court Law states that where an issue is not covered by this Statute, in proceedings before it the Court shall apply the relevant provisions of the Code of Civil Procedure, as well as other enactments issued for the implementation thereof.

The Constitutional Court shall decide:

- 1) to repeal and annul acts or their individual provisions if they are inconsistent with the Constitution or international agreement referred to in Article 10 of the Constitution of the Czech Republic,
- 2) to annul regulations or their individual provisions if they are inconsistent with the Constitution, law or international agreement referred to in Article 10 of the Constitution of the Czech Republic,
- 3) on the constitutional complaints of local self-government organs on the illegitimate state interference,
- 4) on constitutional complaints on the final decision or a breach by public authorities of constitutionally, guaranteed fundamental rights and freedoms,
- 5) on remedies against decisions on the validity of the election of a deputy or senator,
- 6) in case of doubt in the loss of eligibility or incompatibility of functioning of a deputy or senator under Article 25 of the Constitution of the Czech Republic⁶,

⁶ The mandate of deputy or senator expires in case of refusal to take the oath or taking the

- 7) on the constitutional accusation of the President of the Republic by the Senate in accordance with Article 65 paragraph. 2 of the Constitution of the Czech Republic⁷,
- 8) on the request of the President of the Republic to repeal the resolution of the Chamber of Deputies and the Senate adopted pursuant to Article 66 of the Constitution of the Czech Republic⁸,
- 9) on the measures necessary to implement the decision of an international court, which is binding for the Czech Republic, if it cannot be done otherwise,
- 10) on compliance with laws or constitutional laws of a decision to dissolve a political party or other decision concerning the activities of a political party,
- 11) on disputes on jurisdiction between state authorities and local government bodies, unless the law authorizes another organ to adjudicate on such disputes.

The Constitutional Court of the Czech Republic may either operate and decide as a plenum (plenum) or in senates (narrower benches), which are four and in each of them there are three judges. Neither the President nor the Vice-President of the Court may be permanent members of the senates. What is more, the chairman of the senate summons and presides over debates. The Senate can only proceed when the plenum is achieved and adopts a decision if a majority of the judges present are in favour of it.

oath with reservations, expiry of the term of office, resignation, loss of eligibility, and in the case of deputies – termination of the Chamber of Deputies, the creation of incompatibility of functions according to art. 22 of the Constitution of the Czech Republic (a position of MP or a senator can not be combined with holding the office of President of the Republic, the duties of a judge and the other functions specified in the Act, the date on which deputy or senator assumed the office of President of the Republic or on the date on which he undertook a function of a judge or other function incompatible with the function of deputy or senator, the mandate of deputy or senator expires).

⁷ The President of the Republic may be prosecuted for high treason before the Constitutional Court on the basis of charge brought by the Senate. The only penalty that may be imposed is the loss of the Presidency and of further eligibility for the office.

⁸ If the office of President of the Republic was emptied, and the new President of the Republic has not yet been selected or he did not take an oath yet or President of the Republic can not exercise authority because of the important reasons, and the Chamber of Deputies and the Senate stated that the functions described in Article. 63 paragraph. 1 letter: a), b), c), d), e), h), i), j). 63 paragraph. 2 belong to the head of the government. While the head of the government performs the functions indicated, the President of the Chamber of Deputies should perform functions under art. 62 letter: a), b), c), d), e), k); if the office of President becomes vacant during the period when the Chamber of Deputies is dissolved, the exercise of these functions belongs to the President of the Senate.

The senates of the Constitutional Court recognizes matters not reserved for plenum. The Plenum shall adjudicate upon petitions proposing the annulment of the Constitution, on an Act of Parliament or individual provisions, as well as a constitutional charge submitted by the Senate against the President, a petition by the President on the annulment of a concurrent resolution of the Assembly of Deputies and the Senate, disputes on whether a decision to dissolve a political party or any others relating to the activities of a political party is in compliance with constitutional acts or statutes, the determination of the Court's approach to the proposition of law which differs from a proposition of law announced by the Court in a previous judgment and any additional matters if it reserves them to itself.

Decisions as to the merits are passed in the form of judgments and resolutions shall be issued in any other matter. Judge-rapporteur prepares projects of the decisions and the judgment must contain both justification and instruction. The law journal contains the operative part of the judgment and the reasoning constituting *ratio decidendi*. The decision of the Czech Constitutional Court is final – it is not possible to resume the proceedings or appeal the issued decision.

7. HUNGARY

The Constitutional Court is composed of fifteen members, elected for a period of twelve years by the National Assembly, by a majority of 2/3 votes of deputies. Assembly with a 2/3 majority of deputies shall elect a President of the Court, from among the members of the Constitutional Court, whose tenure runs until the expiry of his term of office as a member of the Constitutional Court. Members of the Constitutional Court may not be members of political parties and not conduct any political activity. The detailed provisions governing the structure, functioning and responsibilities of the Constitutional Court are established by law.

The Constitutional Court has the competence to examine the compatibility of an act with the Constitution, which has already been passed but has not yet been yet announced. The Court shall recognize the legal questions at the request of the judge immediately, but not later than ninety days, and determine if the applicable in a given case provision of law is in conformity with the Fundamental Law. Also, when considering the constitutional complaint, Court is required to establish whether used in the case legal provision is consistent with the Constitution. The diagnosis of a constitutional complaint may also be aimed at determining whether the judgment is compatible with the Fundamental Law. Determina-

tion of compliance of normative acts with the Constitution can be carried out at the request of the Government, a quarter of the deputies to the National Assembly, the President of the Supreme Court, the Attorney General or the Commissioner for Fundamental Rights. Court was additionally entrusted with the ability to examine the compliance of normative acts with the international agreements. The Constitutional Court also performs other powers and duties defined by the Fundamental Law or acts.

The Constitutional Court within the competence of the constitutionality control of the law as a result of a question of law, constitutional complaint or a request of an authorized entity may invalidate a normative act or legal provision which is inconsistent with the Fundamental Law. In the case of a constitutional complaint aimed at a particular decision, the Court may invalidate inconsistent with the Basic Law court ruling as well. Also, when it comes to the issue of compatibility of normative acts with the international agreements, Court may revoke an inconsistent normative act or a rule of law, as well as fix other legal consequences provided for by law constitutional provisions.

What is more, the Constitutional Court can examine and annul a provision of a normative act, despite the lack of proper application only if the provision remains in a close connection with the contents of a normative act under the examination. The Hungarian Constitution provides that the Constitutional Court may examine the Fundamental Law and change it only to the extent specified in the Fundamental Law itself. The above procedure may be initiated at the request of the President, in the case of the Basic Law, or changes to the Basic Law which was passed, but still unannounced, or Government, 1/4 of the deputies of the National Assembly, the President of the Curia, the Attorney General or the Commissioner for Fundamental Rights – within thirty days of the announcement.

In the event of submission of such a request for a change or an examination of the Fundamental Law, the Constitutional Court shall examine the proposal not later than within thirty days. If the Constitutional Court finds that the Fundamental Law or its change does not meet the procedural requirements or the Constitution, the change shall be reconsidered by the National Assembly. On the other hand, in the latter case it shall be recognized invalid by the Constitutional Court.

Interestingly, Article 24 paragraph. 7 of the cardinal act provides the Constitutional Court, with the ability to hear the legislator, its initiator or their representatives, or get their opinions in the course of the proceedings, if the case concerns a wider group of people. Furthermore, it was clearly indicated that this stage of the proceedings is public.

8. SUMMARY

After the Second World War, the countries of Central and Eastern Europe were under the influence of the systemic solutions imposed by the USSR. Their constitutional systems were non-democratic systems based on one ideology and the monopoly of one party. The imposed political and socio-economic system concerned all spheres of the individual's life, changed the social structure and economic system. It was only his fall that opened the way to building a new regime, this time a democratic one. In individual countries, these changes took place differently – from reform efforts to almost revolutions. At the same time, transformation processes began, ending with the adoption of the constitution. The new constitutions contained, among others regulations regarding basic human and civil rights and freedoms, whose protection also requires institutional and procedural security. A special role in securing these rights is the judicial system in a given state, and it is not only about common and administrative courts⁹, but also the constitutional judiciary¹⁰.

As of the date of entry into force of the Lisbon Treaty, three fundamental treaties, the Treaty on European Union, the Treaty establishing the European Community and the Treaty establishing the European Atomic Community, have changed. In addition, the European Community has been replaced by a European Union with legal personality. Also, the Treaty of Lisbon abolished the pillar structure of the EU, and the Union was covered by a unified legal regime.

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¹⁰ R. Kwicień, *Suwerenność państwa w Unii Europejskiej: aspekty prawno międzynarodowe*, „Państwo i Prawo” 2003, n. 1, p. 29.