

# **Administrative proceedings on enforced debt collection; immovable property subject to enforced debt collection *K 27/15***

Ref. No. [K 27/15](#)

## **JUDGMENT IN THE NAME OF THE REPUBLIC OF POLAND**

**Warsaw, 18 October 2017**

**The Constitutional Tribunal, in a bench composed of:**

Andrzej Zielonacki – Presiding Judge  
Zbigniew Jędrzejewski – Judge Rapporteur  
Piotr Pszczołkowski  
Małgorzata Pyziak-Szafnicka  
Michał Warciński,

having considered, at a sitting in camera on 18 October 2017 – in accordance with Article 92(1)(1) of the Act of 30 November 2016 on the Organisation of the Constitutional Tribunal and the Mode of Proceedings Before the Constitutional Tribunal (Journal of Laws – Dz. U. item 2072) – an application lodged by the Ombudsman with the Tribunal to consider the conformity of:

Article 144 of the Act of 17 June 1966 on Administrative Proceedings on Enforced Debt Collection (Journal of Laws – Dz. U. of 2014 item 1619, as amended) – insofar as it authorises a competent debt-collection officer who is carrying out enforced debt collection by the seizure of an immovable property or a flat, used by a debtor for residential purposes, to evict the debtor and the other household members, in a situation where no substitute accommodation has been indicated, and the debtor is unable to provide him/herself with a new dwelling – to Article 30, Article 71(1) and Article 75(1) of the Constitution of the Republic of Poland as well as to Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms (Journal of Laws – Dz. U. of 1993 No. 61, item 284, as amended),

adjudicates as follows:

**Article 144 of the Act of 17 June 1966 on Administrative Proceedings on Enforced Debt Collection (Journal of Laws – Dz. U. of 2017 items 1201 and 1475, as amended) – insofar as it authorises a competent debt-collection officer who is carrying out enforced debt collection by the seizure of an immovable property or a flat, used by a debtor for residential purposes, to evict the debtor and the other household members, in a situation where no substitute accommodation has been indicated, and the debtor is unable to provide him/herself with a new dwelling – is inconsistent with Article 30, Article 71(1) and Article 75(1) of the Constitution of the Republic of Poland, due to the fact that it does not contain any**

**regulations guaranteeing minimal protection against homelessness to persons who are unable to provide themselves with new dwellings.**

Moreover, the Tribunal decides:

**pursuant to Article 59(1)(3) of the Act of 30 November 2016 on the Organisation of the Constitutional Tribunal and the Mode of Proceedings Before the Constitutional Tribunal (Journal of Laws – Dz. U., item 2072), to discontinue the proceedings as to the remainder.**

The ruling was unanimous.

*Andrzej Zielonacki*

*Zbigniew Jędrzejewski*

*Piotr Pszczółkowski*

*Małgorzata Pyziak-Szafnicka*

*Michał Warciński*