

# Terms of suspending the limitation period for prosecuting lesser offences subject to private prosecution SK 3/16

Ref. No. [SK 3/16](#)

## JUDGMENT IN THE NAME OF THE REPUBLIC OF POLAND

Warsaw, 20 April 2017

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

Stanisław Rymar – Presiding Judge  
Grzegorz Jędrejek  
Piotr Pszczółkowski  
Małgorzata Pyziak-Szafnicka – Judge Rapporteur  
Michał Warciński,

having considered, at a sitting in camera on 20 April 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) – a constitutional complaint submitted by Mr J.B. in which he requested the Tribunal to examine the conformity of:

Article 101(2) of the Act of 6 June 1997 – the Penal Code (Journal of Laws – Dz. U. No. 88, item 553, as amended), insofar as it does not provide for the suspension of the limitation period for prosecuting lesser offences subject to private prosecution, due to the lack of the possibility of prosecuting a perpetrator by an aggrieved party, to:

- 1) Article 47 in conjunction with Article 45(1) or in conjunction with Article 2 of the Constitution of the Republic of Poland as well as in conjunction with Article 6(1) and/or Article 14 of the Convention for the Protection of Human Rights and Fundamental Freedoms, done at Rome on 4 November 1950, as amended by Protocols Nos. 3, 5 and 8 as well as supplemented by Protocol No. 2 (Journal of Laws – Dz. U. of 1993, No. 61, item 284) or Article 13 of the Convention on the Rights of Persons with Disabilities, done at New York on 13 December 2006 (Journal of Laws – Dz. U. of 2012 item 1169);
- 2) Article 77(2) in conjunction with Article 47 or in conjunction with Article 2 or in conjunction with Article 45(1) of the Constitution of the Republic of Poland as well as in conjunction with Article 6(1) and/or Article 14 of the Convention for the Protection of Human Rights and Fundamental Freedoms or in conjunction with Article 13 of the Convention on the Rights of Persons with Disabilities;

adjudicates as follows:

**Article 101(2) of the Act of 6 June 1997 – the Penal Code** (Journal of Laws – Dz. U. of 2016, item 1137, as amended), **insofar as it stipulates that the criminality of the offence of insult subject to private prosecution shall cease after the lapse of 12 months from the moment when the aggrieved party becomes aware of the perpetrator, is consistent with Article 47 in conjunction with Article 45(1) and Article 77(2) of the Constitution of the Republic of Poland.**

Moreover, the Tribunal decides:

**pursuant to Article 59(1)(2) 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.**

*Stanisław Rymar  
Grzegorz Jędrejek  
Piotr Pszczółkowski  
Małgorzata Pyziak-Szafnicka  
Michał Warciński*