JUDICIAL DECISION

Ref. No. K 32/14

Warsaw, 3 November 2015

The Constitutional Tribunal, in a bench composed of:

Andrzej Rzepliński – Presiding Judge

Stanisław Biernat

Zbigniew Cieślak

Maria Gintownt-Jankowicz

Mirosław Granat

Wojciech Hermeliński

Leon Kieres

Marek Kotlinowski

Teresa Liszcz

Małgorzata Pyziak-Szafnicka Stanisław RymarPiotr Tuleja

Sławomira Wronkowska-Jaśkiewicz - Judge RapporteurAndrzej WróbelMarek Zubik,

having considered, in closed session on 3 November 2014, the application of the Commissioner for Human Rights to determine the conformity of:

art. 34(1) and (3) in the part containing the wording "after being knocked unconscious" in conjunction with art. 35(1) of the Act of 21 August 1997 regarding animal protection (Journal of Laws – Dz. U. of 2013, item 856) insofar as it did not provide for subjecting animals to special methods of slaughter for the exclusive needs of local religious communities and at the same time provided for criminal liability for subjecting animals to ritual slaughter for the exclusive needs of local religious communities, with art. 53(1), (2) first sentence and (5) in conjunction art. 31(3) and art. 25(1) of the Constitution in conjunction with art. 9(1) and (2) of the Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950

(Journal of Laws – Dz. U of 1993, No. 61, item 284, as amended) and in conjunction with art. 10 of the Charter of Fundamental Rights of the European Union (EU Official Journal C 326 of 26.10.2012, p. 391),

decides:

pursuant to art. 39(1)(1) and (3) of the Constitutional Tribunal Act of 1 August 1997 (Journal of Laws - Dz. U. No. 102, item 643, of 2000 No. 48, item 522 No. 53, item 638, of 2001 No. 98, item 1070, of 2005 No. 169, item 1417, of 2009 No. 56, item 459 and No. 178, item 1375, of 2010 No. 182, item 1228 and No. 197, item 1307 as well as of 2011 No. 112, item 654) in conjunction with art. 134(3) of the Constitutional Tribunal Act of 25 June 2015 (Journal of Laws – Dz. U. item 1064) to discontinue the proceedings.

STATEMENT OF REASONS

I

1. On the basis of an application of 24 October 2014, the Commissioner for Human Rights (hereinafter also: the applicant) had referred to the Constitutional Tribunal to examine the conformity of art. 34(1) and (3) in the part containing the wording "after being knocked unconscious" in conjunction with art. 35(1) of the Act of 21 August 1997 regarding animal protection (Journal of Laws – Dz. U. of 2013, item 865, as amended; hereinafter: Animal Protection Act – APA) insofar as it insofar as it did not provide for subjecting animals to special methods of slaughter for the exclusive needs of local religious communities and at the same time provided for criminal liability for subjecting animals to ritual slaughter for the exclusive needs of local religious communities, with art. 53(1), (2) first sentence and (5) in conjunction art. 31(3) and art. 25(1) of the Constitution in conjunction with art. 9(1) and (2) of the Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950 (Journal of Laws – Dz. U of 1993, No. 61, item 284, as amended; hereinafter: Convention) and in conjunction with art. 10 of the Charter of Fundamental Rights of the European Union (EU Official Journal C 326 of 26.10.2012, p. 391; hereinafter: Charter).

The challenged provisions – subject to amendments to their normative content resulting from the judgment of the Constitutional Tribunal of 10 December 2014, ref. no. K 52/13 (OTK ZU no. II/A/2014, item 118), published after the Commissioner had submitted the application regarding this case – state:

1. art. 34(1) of APA – "A vertebral animal from the butchering facility can be put to death only after being knocked unconscious, conducted by duly qualified persons",
2. art. 34(3) of APA – "If ungulate animals are slaughtered in the household they may be put to death only after being previously knocked unconscious by a semi-skilled butcher",
3. art. 35(1) of APA – "Whoever kills an animal or puts it to death or butchers it in violation of the provisions of Art. 6 Section 1, Art. 33 or Art. 34 Sections 1-4 shall be subject to a fine, the penalty of deprivation of liberty or imprisonment for up to 2 years."

The Commissioner for Human Rights has noted that, in accordance with the rules of ritual slaughter, which is practiced in Judaism and Islam, the animal cannot be stunned before being put to death, which means that in the act forbade such slaughter. After presenting the evolution of Polish regulations concerning the issue of ritual slaughter and EU regulations in this regard, the applicant has pointed out that ritual slaughter is a manifestation of freedom of religion, in particular the freedom to manifest it.

When justifying the alleged violation of the Constitution, the Commissioner for Human Rights stated that the rights and freedoms guaranteed by it are not absolute and, consequently, may be subject to limitations in accordance with the conditions laid down in the basic law. The premises for limiting freedom of religion, set out in art. 53(1) and (2) of the Constitution have been indicated in its art. 53(5) and art. 31(3). According to the applicant, the ban on ritual slaughter should not be linked with the protection of state security, public order, the environment, public health, or the freedoms and rights of others. The considered limitation of freedom of religion can only be linked with the premise of morality or public morality, allowing for legal interference only in relation to such actions, which are widely regarded as having caused social detriment. In the Polish society, however, there is no common and uniform belief

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about the harmfulness of ritual slaughter. Therefore, regardless from the development of the idea of animal protection and the principle of humanitarian treatment it should be considered that the lack of an exception to the imperative to knock animals’ unconscious in the case of animal slaughter conducted according to special methods required by religious rites, for the exclusive needs of local religious communities, cannot be justified by the premise of the protection of morals or public morality. The unconstitutionality of the regulation prohibiting ritual slaughter, thus, determines criminal liability for it to also non-conform to the basic law. The discussed regulations are also considered to infringe the religious freedom guarantees resulting from art. 9 of the Convention and art. 10 of the Charter.

Invoking art. 25(1) of the Constitution by the Commissioner for Human Rights was meant only to draw attention to the fact that – due to the equality of religious organisations – introducing the possibility to carry out ritual slaughter should concern both the followers of Judaism and Islam.

1. The President of the formation, in their letter of 26 February 2015, addressed the Commissioner for Human Rights to provide information, whether he maintains the application submitted in the present case in light of the Constitutional Tribunal's judgment of 10 December 2014, ref. no. K 52/13. By letter of 13 March 2015, the Commissioner has upheld their request, arguing that – in their opinion – in that judgment the Tribunal did not recognize the allegation of non-constitutionality of the ban on ritual slaughter to the full extent, as it omitted the issue of the purpose of meat from such slaughter, which can only be intended for the needs of local religious communities.
2. By letter of 25 September 2015, on behalf of the Parliament, the Marshal of the Sejm has taken the position to discontinue the proceedings in accordance to art. 39(1)(1) of the Act on 1 August 1997 on the Constitutional Tribunal (Journal of Laws – Dz. U. No. 102, item 643, as amended; hereinafter: CT Act) in conjunction with art. 134(3) of the Act of 25 June 2015 on the Constitutional Tribunal (Journal of Laws – Dz. U. item 1064) due to the superfluousness of the judgement.

The Marshal of the Sejm concluded that the allegation made by the Commissioner for Human Rights is of general nature – it concerns the lack of an exception in APA, which would provide for subjecting animals to particular ways of ritual slaughter for the needs of religious communities. The applicant does not formulate a separate justification in relation to art. 34(1) and (3) of the APA, and in particular does not formulate independent arguments for the unconstitutionality of art. 34(3) of the APA.

This means that the subject of control in this proceeding – despite some differences pertaining to its formulation and partially different control patterns – is identical with the subject of the ruling under ref. no. K 52/13. In its judgment of 10 December 2014, the Tribunal found that art. 34(1) of APA, insofar as it does not provide for subjecting animals to slaughter in a slaughterhouse in accordance with special methods prescribed by religious rites and art. 35(1) and (4) of APA insofar as they provided for criminal liability for subjecting animals to slaughter in a slaughterhouse in accordance with special methods prescribed by religious rites were inconsistent with Article 53(1), (2) and (5) of the Constitution in conjunction with Article 9 of the Convention. As a consequence, it updates the negative procedural condition arising from the principle of *ne bis in idem* in this proceedings.

The Marshal of the Sejm did not agree with the position of the Commissioner for Human Rights taken in their letter of 13 March 2015, that in the judgment of 10 December 2014, ref. no. K 52/13, the Tribunal ruled only on the constitutionality of the method of ritual slaughter itself, without judging the scope of admissibility of this practice. A different opinion is confirmed both by the sentence, and the statement of reasons of the cited ruling. The judgment considered has consumed the constitutional problem presented by the Commissioner. Its rephrasing in such a way as to make e.g. the matter of the purpose of meat obtained through ritual method the subject of the proceeding, should be considered – by maintaining existing arguments and control patterns – unacceptable due to the principle of accusatorial procedure. What's more, in the current legal state, in which the allowed scope of ritual slaughter is determined by the provisions of APA and the judgment of the Constitutional Tribunal of 10 December 2014, such an attempt would pursue a specific correction of the indicated adjudication.

The Marshal of the Sejm pointed out that the arguments formulated by the Commissioner for Human Rights concern only the unconstitutionality of the prohibition of ritual slaughter in the legal state before the decision under ref. no. K 52/13 has been issued. The application did not contain any justification for the restriction of the acceptability of ritual slaughter.

1. By letter of 16 December 2014, the Public Prosecutor General took a position, motioning for discontinue the proceedings pursuant to art. 39(1)(1) of the CT Act superfluousness of the judgment.

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As noted by the Public Prosecutor General, the Commissioner for Human Rights has challenged the constitutionality of the ban of ritual slaughter on animals, without prior stunning, in order to obtain meat for the needs of local religious communities and the criminal liability of infringements of this ban. In contrast, they did not challenge the prohibition on ritual slaughter in order to obtain meat in quantities larger than the indicated needs, intended, for example, for exports. The regulations challenged by the Ombudsman in this case have already become the subject of the Tribunal's ruling in the case under ref. no. K 52/13. The reconsideration of the constitutionality of the same normative content by the Tribunal should therefore be considered redundant.

II

The Constitutional Tribunal has considered the following:

1. The subject of the application filed by the Commissioner for Human Rights is a request to determine the conformity of art. 34(1) and (3) in the part containing the wording "after being knocked unconscious" in conjunction with art. 35(1) of the Act of 21 August 1997 regarding animal protection (Journal of Laws – Dz. U. of 2013, item 856, as amended; hereinafter: Animal Protection Act – APA) insofar as they did not provide for subjecting animals to special methods of slaughter for the exclusive needs of local religious communities and at the same time provided for criminal liability for subjecting animals to ritual slaughter for the exclusive needs of local religious communities, with art. 53(1), (2) first sentence and (5) in conjunction art. 31(3) and art. 25(1) of the Constitution in conjunction with art. 9(1) and (2) of the Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950 (Journal of Laws – Dz. U. of 1993, No. 61, item 284, as amended; hereinafter: Convention) and in conjunction with art. 10 of the Charter of Fundamental Rights of the European Union (EU Official Journal C 326 of 26.10.2012, p. 391; hereinafter: Charter).
2. The content of the contested regulation, on the day of filing the application by the Commissioner, was as follows:
3. art. 34(1) of APA – "A vertebral animal from the butchering facility can be put to death only after being knocked unconscious, conducted by duly qualified persons",
4. art. 34(3) of APA – "If ungulate animals are slaughtered in the household they may be put to death only after being previously knocked unconscious by a semi-skilled butcher",

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1. art. 35(1) of APA – "Whoever kills an animal or puts it to death or butchers it in violation of the provisions of Art. 6 Section 1, Art. 33 or Art. 34 Sections 1-4 shall be subject to a fine, the penalty of deprivation of liberty or imprisonment for up to 2 years."

The Constitutional Tribunal noted that the same legal provisions have already been reviewed in the case under ref. no. K 52/13, initiated by the application filed by the Association of Jewish Religious Communities in the Republic of Poland to determine the conformity of:

1. art. 34(1) and (3) and art. 35(1) and (4) of APA insofar as they do not provide for subjecting animals to special methods of slaughter required by religious rites of regularised religious communities and at the same time provided for criminal liability for subjecting animals to ritual slaughter in such specific manners,
2. art. 34(1) and (3) in conjunction with art. 6(1) of APA, insofar as among the circumstances justifying the admissibility of vertebrates' slaughter without prior stunning do not list the specific ways of slaughtering animals provided for by religious rites of regularised religious communities

– with art. 53(1), (2) and (5) and art. 35(1) in conjunction with art. 31(3) of the Constitution in conjunction with art. 9(1) and (2) of the Convention and art. 32(1) and (2) of the Constitution in conjunction with art. 14 of the Convention.

In its judgment of 10 December 2014, ref. no. K 52/13 (OTK ZU nr II/A/2014, item 118) published after the filing of this application by the Commissioner for Human Rights, the Tribunal adjudicated that:

1. art. 34(1) of the APA, insofar as it did not provide for subjecting animals to slaughter in a slaughterhouse in accordance with special methods prescribed by religious rites was inconsistent with art. 53(1), (2) and (5) of the Constitution in conjunction with art. 9 of the Convention,
2. article 35(1) and art. 35(4) of the above-mentioned Act, insofar as they provided for criminal liability for subjecting animals to slaughter in a slaughterhouse in accordance with special methods prescribed by religious rites were inconsistent with art. 53(1), (2) and (5) of the Constitution in conjunction with Article 9 of the Convention;

As to the remainder, the Tribunal discontinued the review proceedings pursuant to art. 39(1)(1) of the Act of 1 August 1997 on the Constitutional Tribunal (Journal of Laws – Dz. U. No. 102, item 643, as amended; hereinafter: CT Act).

In this case, the Tribunal considered it necessary to determine whether in the present case a circumstance has occurred that prevents issuing substantive decisions. At the same time, it has to be explained that – despite the entry into force of the Act of 25 June 2015 on the Constitutional Tribunal (Journal of Laws – Dz. U. item 1064; hereinafter; new CT Act) on 30 August 2015 – in order to assess whether there are conditions for the discontinuation of proceedings initiated and not concluded before that day, the current provisions shall apply – in accordance with the transitional regulation contained in art. 134(3) of the new CT Act.

Therefore, mainly art. 39 of the CT Act and other normatively related provisions of this Act (e.g. determining the formal requirements of an application) are applied.

The consideration of the influence of judgment under ref. no. K 52/13 on the admissibility of judgment in the present case has been made by the Tribunal separately with respect to the inconformity of statutory scope with regulations of higher legal force:

1. art. 34(1) in the part containing the wording "after being knocked unconscious" in conjunction with art. 35(1) of APA, providing for the ban and criminal liability for subjecting animals to ritual slaughter in a slaughterhouse,
2. art. 34(3) in the part containing the wording "after being knocked unconscious" in conjunction with art. 35(1) of APA, providing for the ban and criminal liability for subjecting animals to ritual slaughter in households.
3. Referring to the allegation of infringement of freedom of religion by art. 34(1) in the part containing the wording "after being knocked unconscious" in conjunction with art. 35(1) of APA to the extent indicated in the application, which provided for the prohibition and criminal liability of ritual slaughter in slaughterhouses, the Tribunal found that the regulations challenged by the Commissioner for Human Rights have been deprived of binding force following the finding of their unconstitutionality in judgment of 10 December 2014, ref. no. K 52/13. This issue requires a detailed explanation, first of all a precise statement of the scope of normative content deemed unconstitutional in the referred judgment and the scope of normative content challenged by the applicant.

It has to be reminded that pursuant to art. 34(1) of APA, vertebral animal from the butchering facility can be put to death only after being knocked unconscious, conducted by duly qualified persons, where the Tribunal deemed this provision unconstitutional, insofar as it did not allow for subjecting animals to slaughter in a slaughterhouse (abattoir) according to specific methods required by religious rites. This means that – taking into account the consequences of the judgement of 10 December 2014 – the currently applicable legal standard prohibits putting to death vertebrate animals without prior

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deprivation of consciousness, unless the slaughter in the slaughterhouse (abattoir) is done by a duly qualified person according to specific methods required by religious rites, regardless of for whose needs such slaughter is conducted (the regulation of the last issue has been explicitly left by the Tribunal to the decision of the legislator). The Commissioner for Human Rights challenges art. 34(1) of APA in relation to the condition of prior deprivation of consciousness insofar as it does not allow to put animals to specific methods of slaughter for the exclusive needs of local religious communities. In case of accepting the applicants' request, the demanded legal norm would forbid putting vertebrate animals to death without prior deprivation of consciousness, unless the slaughter in the slaughterhouse (abattoir) is done by a duly qualified person according to specific methods required by religious rites. Bearing in mind that the phrase "slaughter according to specific methods required by religious rites" and the phrase "specific methods of slaughter" in the context of the needs of religious communities are synonymous, since they refer to slaughter practiced according to religious rules, it should have been considered that the Tribunal in its judgment of 10 December 2014 declared the unconstitutionality of art. 34(1) of APA in a wider scope than the one requested by the Commissioner, as it did not take into account the additional condition of exclusive needs of local religious communities. This meant that the scope of normative content challenged by the applicant was included within the scope of normative content deprived of binding force by the decision of the Tribunal. To avoid any doubt, it should be added that limiting the scope of application of the sanctioned norm, expressed in art. 34(1) of APA, translated correspondingly to limiting the scope of application of the sanctioning norm contained in art. 35(1) of APA. Therefore, in this case also was unconstitutionality declared in a broader scope than postulated by the Commissioner.

The findings support the conclusion that the proceedings in this section was subject to discontinuation. The obligation of discontinuation – other than maintained by the Marshal of the Sejm and the Public Prosecutor General – in this case was not a consequence of the ne bis in idem principle, which would amount to the negative procedural condition of judgment redundancy (art. 39(1)(1) of the CT Act, in conjunction with art. 134(3) of the new CT Act), but was a consequence of the loss of binding force of the challenged regulations (art. 39(1)(3) of the CT Act in conjunction with art. 134(3) of the new CT Act). As the Constitutional Tribunal aptly noted in its decision of 11 June 2013,

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ref. no. K 50/12 (OTK ZU no. 5/A/2013, item 69): "the application of the ne bis in idem principle is fully justified if there is a prior ruling on the conformity of the examined subject with the indicated control pattern or if the Tribunal has considered the indicated pattern to be inadequate to examine a given control subject, that is, in situations where the subject of the examination is still in the legal system. However, using this principle is not possible after a provision has been deemed unconstitutional, because the judgement is followed by derogation of the provision, which excludes the possibility to establish the identity of the subject and control patterns. The removal of the challenged provision from the legal system results in the lack of the subject of the control of constitutionality on principles similar to the loss of binding power of the provision, and the proceedings before the Constitutional Tribunal becomes impermissible". It should be clarified at this point that when the loss of binding force by a legal regulation is not the consequence of its repeal, but the consequence of determining it unconstitutional, the exception set out in art. 39(3) of the CT Act cannot be applied, namely the obligation to subject the non-effective regulation to substance control, if it was necessary for the protection of constitutional rights and freedoms. It is undeniable that such protection was already granted by the ruling, whose publication resulted in depriving the faulty regulation of its binding force.

In addition, the Constitutional Tribunal has found that – regardless of the condition of the loss of binding force by the challenged regulation – the discontinuation of proceedings in the case of two control patterns indicated by the Commissioner for Human Rights are supported by additional arguments that decide about the need to discontinue the proceedings on grounds of the pronouncement of a judgment to be inadmissible (art. 39(1)(1) of the CT Act in conjunction with art. 134(3) of the new CT Act).

Firstly, it should be noted that invoking art. 25(1) of the Constitution as the control pattern by the Commissioner for Human Rights was only to draw attention to the fact that introducing the possibility of ritual slaughter should apply both to followers of Judaism and Islam. In other words, the applicant has not claimed that the current legal regulation violated the principle of equality of religious communities, but that – if it is declared unconstitutional – one has to bear in mind the equality of followers of different religions. For this reason, it was impossible to conclude that an unconstitutionality complain has been formulated in the considered scope.

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Secondly, it should be noted that art. 10 of the Charter ("Freedom of thought, conscience and religion") consists of two paragraphs, the first of which states that "Everyone has the right to freedom of thought, conscience and religion. This right includes freedom to change religion or belief and freedom, either alone or in community with others and in public or in private, to manifest religion or belief, in worship, teaching, practice and observance", in turn the second one provides that "The right to conscientious objection is recognised, in accordance with the national laws governing the exercise of this right". The analysis of the application showed clearly that the Commissioner sought to demonstrate the inconformity of APA regulations with art. 10(1) of the Charter. The statement of reasons of the application does not contain any arguments for the recognition that the ban on ritual slaughter violates the right to conscientious objection. This meant the failure to comply with the requirement of the application for limited constitutionality check of art. 34(1) in the part containing the wording "after being knocked unconscious" in conjunction with art. 35(1) of APA with art. 10(2) of the Charter (art. 32(1)(4) of the CT Act in conjunction with art. 134(3) of the new CT Act).

In addition, the Constitutional Tribunal pointed out when analysing the application of the Commissioner for Human Rights in connection with the letter of 13 March 2015, it took into account the possibility of a different reconstruction of the subject of review. It was necessary to consider whether after the Tribunal issued the judgment of 10 December 2014, ref. no. K 52/10, the applicant did not intend to modify it through resigning from challenging certain normative contents contained in art. 34(1) in conjunction with art. 35(1) of APA and to challenge the lack of a regulation introducing the postulated restrictions in the practice of ritual slaughter; in other words, whether ultimately the constitutional review was not to pertain a legislative omission. The fact that in the letter dated 13 March 2015, the Commissioner clearly reiterated their application in its original version, without making any changes with respect to the subject matter of control, speaks against such interpretation. Besides, it should be noted that control patterns should have been modified. Freedom of religion justifies the admissibility of ritual slaughter, but it is inadequate with respect to narrowing the scope of its admissibility, motivated by the protection of animal welfare, rather than guaranteeing freedom of religion practices.

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Apart from this, even if one wanted to accept that the Commissioner for Human Rights sought to challenge the legislative omission, their application would prove inadmissible because – as rightly pointed out by the Marshal of the Sejm – it would have to correct the judgment of 10 December 2014, ref. no. K 52/13. In this context it has to be noted that substantive rulings of the Constitutional Tribunal are final (art. 190(1) of the Constitution). This means not only the impossibility to challenge the judgment of the Tribunal by way of any legislative measures (formal aspect of finality), but also the inadmissibility to challenge the constitutionality of the legal state formed by such judgment in any other proceedings (material aspect of finality). As a result, the examination of the constitutionality of ritual slaughter, in the extent of the legal situation applicable in this respect as a consequence of the judgment of 10 December 2014, is excluded. Re-verification would only be possible if the relevant provisions of the Basic Law (as control patterns) or the corresponding provisions of the APA (as the subject of the control) would change, which would require the intervention of the legislature, subject to a substantial modification to the understanding of the indicated regulations in legal practice.

Consequently, the Constitutional Tribunal found that in the considered scope the proceedings were subject to discontinuation pursuant to art. 39(1)(3) of the CT Act in conjunction with art. 134(3) of the new CT Act due to the loss of binding force by the challenged legal regulations, and – in part – on the basis of art. 39(1)(1) of the CT Act in conjunction with art. 134(3) of the new CT Act due to the pronouncement of a judgment to be inadmissible.

1. Referring to the allegation of infringement of freedom of religion by art. 34(3) in the part containing the wording "after being knocked unconscious" in conjunction with art. 35(1) of APA to the extent indicated in the application, which provided for the prohibition and criminal liability of ritual slaughter in households, the Constitutional Tribunal found that the in case ref. no. K 52/13, the proceedings in this regard has been discontinued due to the pronouncement of a judgment to be inadmissible for the lack of reasoning for the raised objections (art. 39(1)(1) in conjunction with art. 32(1)(4) of the CT Act). In its judgment of 10 December 2014, the Tribunal stated that: "In the application, the applicant challenged art. 34(3) of the APA, which provides that in «household slaughter» ungulate animals may be put to death only after having been knocked unconscious by a semi-skilled butcher. However, the argumentation presented in the statement

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of reasons concentrates on the ban on ritual slaughter in a slaughterhouse (abattoir) resulting from art. 34(1) of APA. In the statement of reasons, the applicant did not address the contents of art. 34(3) of the APA in detail, including the understanding of the term «household slaughter». (...) Therefore, the Constitutional Tribunal has found that the applicant, contrary to the requirement laid down in art. 32(1)(4) of the CT Act, has not substantiated the allegation of infringement of established control patterns by art. 34(3) of APA in the the scope indicated in the petitum of the application".

Although the discontinuation of proceedings with respect to the considered legal regulation was not binding in these proceedings and, consequently, did not hamper the substantive examination of the case, the Constitutional Tribunal observed that the application filed by the Commissioner for Human Rights was saddled with an identical fault as the application filed by the Association of Jewish Religious Communities in the Republic of Poland. The applicant only presented the reasoning behind the defects of the APA that prohibit and criminalize ritual slaughter in slaughterhouses. He did not, however, indicate the required reasoning in the context of household ritual slaughter. One can even cite a fragment of the application, which deems only ritual slaughter in slaughterhouses to be constitutional: "Bearing in mind the freedom to manifest religion guaranteed by the Polish Constitution, as well as the reasons for its restriction provided for in art. 53(5) and art. 31(3), it has to be pointed out that in the opinion of the Commissioner, the restriction of this freedom – manifesting one's religion through ritual slaughter – bears no justification in the context of substantive conditions for its restriction mentioned above. Conducting ritual slaughter for the exclusive needs of local religious communities seeks to obtain kosher food and is one of the elements of manifesting religion by the followers of Judaism and Islam. Ritual slaughter, conducted in a slaughterhouse and by a semi-skilled butcher and for the exclusive needs of religious communities, which does not take place on a massive scale and only aims to meet the needs of a particular religious community, is constitutionally permissible". This meant a failure to comply with the requirement of the application for the determination of constitutionality of art. 34(3) in the part containing the wording "after being knocked unconscious" in conjunction with art. 35(1) of the APA (art. 32(1)(4) of the CT Act in conjunction with art. 134(3) of the new CT Act).

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Consequently, the Tribunal held that in the considered scope the proceedings were subject to discontinuation pursuant to art. 39(1)(1) of the CT Act in conjunction with art. 134(3) of the new CT Act due to the pronouncement of a judgment to be inadmissible.

Taking the above into consideration, the Constitutional Tribunal has adjudicated as in the operative part of the judgment

Due signatures on the original. True to the original:

Registrar of the Tribunal Dorota Hajduk .

