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This is getting boring

I honestly wanted to write about something different this time, realising that my columns about the Constitutional Tribunal may have been boring for many readers. However, the saga has taken a couple of interesting twists.

Two weeks ago, the government suddenly published 21 rulings of the Constitutional Tribunal. Is this progress?

To understand what happened, we need to go back to 9 March of this year, when the Constitutional Tribunal ruled that the Law on the Constitutional Tribunal of 22 December 2015 (the "New Law") was unconstitutional in its entirety.

The Prime Minister refused to publish this decision, stating that it was invalid because it was not issued based on the New Law, which had come into force on the day it was published. This is when the protests started and when all the courts in the country stated one-by-one that they would adhere to the rulings of the Constitutional Tribunal regardless of whether they were published or not. The Venice Commission issued strongly-worded recommendations and pressure from Brussels was stepped up.

After seven months, 21 rulings of the Constitutional Tribunal issued in accordance with the Old Law, many street protests and EU pressure, another Law on the Constitutional Tribunal was adopted on 22 July 2016 (the "Newest Law"), which failed to implement some of the essential recommendations of the Venice Commission. Not surprisingly, on 11 August 2016, the Constitutional Tribunal ruled the Newest Law to be unconstitutional as well.

Then, unexpectedly, the Prime Minister ordered the publication of the 21 rulings of the Constitutional Tribunal, i.e. all the rulings since the election except the two that dealt with the Tribunal itself. In a way, it is good that the rulings

of the Tribunal are again respected by the government. It is interesting to note, however, how the government's logic has bitten its own tail.

The government's logic was that the ruling of 9 March 2016 should have been issued in accordance with the New Law. For months, the government ignored all the Tribunal's rulings as merely the "opinions of a group of judges meeting for coffee". Now that the government has published these 21 rulings, it has betrayed its own logic as it has recognised rulings made in accordance with the Old Law but, for purely political reasons, it has left out the two about the Tribunal.

According to most experts, the government's logic is flawed because had the Tribunal ruled in accordance with the New Law that the New Law was unconstitutional, the ruling would automatically have been invalid. Therefore, on 9 March, the Constitutional Tribunal did the only logical thing and ruled based on the procedures set forth in the Old Law.

In addition, it should be noted that all these 21 rulings deal with laws that predate the PIS government. Once other laws passed by the PIS parliament are deemed unconstitutional, it will be interesting to see whether they will be published.

Why is this Tribunal so important for investors and why should members of the Chamber be interested in this subject?

The Tribunal, together with an independent judiciary, guarantees the stability of the entire legal, and therefore economic, system of Poland. With the saga continuing, and following the decision of the prosecutor-general, Minister Ziobro, to investigate Mr. Rzepliński, Moody's has just issued a press release in which it warns Poland that such escalation of the crisis around the Tribunal and the strained relationship with the European Union resulting therefrom, will worsen the investment climate in Poland.

In the meantime, the economy is still going strong