

## **The Act on the Constitutional Court**

of 16 June 1993, No. 182/1993 Sb.,

as amended by Acts No. 331/1993 Sb., 236/1995 Sb., 77/1998 Sb., 18/2000 Sb., 132/2000 Sb., 48/2002 Sb., 202/2002 Sb., 320/2002 Sb., 114/2003 Sb., 83/2004 Sb., 120/2004 Sb., 234/2006 Sb. and 342/2006 Sb., 227/2009 Sb., 404/2012 Sb., and 275/2012 Sb

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The Parliament has enacted the following statute of the Czech Republic:

### **F I R S T P A R T - ORGANIZATION OF THE CONSTITUTIONAL COURT**

#### § 1

The Constitutional Court [hereinafter "Court"] shall consist of a Chairperson, two Vice-Chairpersons, and other Justices.

The Chairperson and the Vice-Chairpersons of the Court

#### § 2

From among the Justices of the Court [hereinafter "Justices"], the President of the Republic [hereinafter "President"] shall appoint a Chairperson and two Vice-Chairpersons of the Court [hereinafter "Chairperson" and "Vice-Chairpersons"].

#### § 3

(1) The Chairperson shall:

- a) represent the Court externally;
- b) perform the administrative work of the Court;
- c) call meetings of the Plenum of the Court [hereinafter "Plenum"], fix the agenda for, and direct the business of meetings;
- d) appoint Chairpersons of Panels of the Court [hereinafter "Panels"],
- e) perform other duties placed upon her by statute.

(2) The Vice-Chairpersons shall act on behalf of the Chairperson in her absence, to the extent and in the order determined by the Plenum.

(3) With the consent of the Plenum, the Chairperson may delegate the long-term performance of certain of her duties to the Vice-Chairpersons.

## Justices

### § 4

(1) The office of Justice is a public office.

(2) Justices may not be prosecuted for administrative offenses.

(3) It is incompatible with the performance of his duties for a Justice to hold some other compensated positions or to engage in some other profit-making activities, with the exception of the management of his own assets and activities of a scholarly, pedagogical, literary or artistic nature, provided that such activities are not to the detriment of the office of Justice, its significance and dignity, and do not tend to undermine confidence in the independence and impartiality of the decision-making of the Court.

(4) The performance of the office of Justice is also incompatible with membership in a political

party or political movement.

### § 5

A Justice is obliged to maintain secrecy concerning matters about which she learned in connection with the performance of her judicial duties. This obligation continues even after she has left her judicial office.

### § 6

(1) The President shall seek the consent of the Senate to his appointment of a Justice.

(2) If the President does not obtain consent under paragraph 1 within 60 days of his request, only due to the fact that the Senate did not vote on the matter within the above-stated period, then the Senate shall be deemed to have given its consent.

### § 7

(1) A Justice may resign from her office by means of a declaration to that effect made before the President. If she is prevented by serious circumstances from so doing, she may make a written declaration in the form of a notarial record.

(2) A Justice's office shall terminate on the day after he makes a declaration pursuant to paragraph 1 or on the day after such a declaration is delivered to the President.

(3) A Justice's office shall also terminate:

a) upon the expiration of the term for which she was appointed;

b) on the day she ceases to be eligible for election to the Senate;

c) on the day a decision by which she is convicted of the wilful commission of a criminal offense becomes final;

d) upon the announcement by the Court of a ruling under § 144 terminating her office.

(4) If a Justice's seat is left vacant due to his office terminating pursuant to paragraph 3, the Chairperson shall so inform the President without delay.

#### Assistants to Justices

#### § 8

(1) Each Justice is appointed at least one Assistant to the Justice (hereafter only as "the Assistant") for a definite period of time not exceeding the time for which the Justice to whom the Assistant has been appointed.

(2) The Chairperson names and recalls each Assistant on the basis of a proposal of the Justice for whom she will work.

#### § 9

(1) Any upstanding person who has completed a university legal education may be appointed an Assistant.

(2) An Assistant may resign from office: the employment of the Assistant shall terminate on the day after the day on which the letter of resignation was delivered to the Chairperson of the Constitutional Court unless the date stated on the resignation letter was the following day.

(3) The employment of an Assistant shall further terminate

a) upon termination of the office of the Justice to whom the Assistant was appointed,

b) on the day when a decision by which an Assistant is convicted of a criminal offence becomes final,

c) upon his recall,

d) d)by expiration of the period of time for which an Assistant has been appointed, provided they had been appointed for a definite period of time.

(4) Where Assistants, whose employment has been terminated pursuant to Section 3 Letter a), have performed the duties of the office for at least three months, they are entitled to redundancy pay in line with the number of years served in the office of an Assistant up to a maximum amount of three times their average monthly earnings.

(5) An Assistant is obliged to maintain confidentiality on matters learned during the course of the performance of office. This obligation shall stand after termination of office. The Chairperson of the Constitutional Court may discharge an Assistant from such obligation.

## § 10

### The Status of Justices and Assistants in Employment Relations

Unless this Statute provides otherwise, the provisions of the Labour Code shall apply to the employment relations pertaining to the office of a Justice and the position of an Assistant.

### The Plenum

## § 11

(1) The Plenum shall be composed of all Justices. Unless this Statute provides otherwise, the Plenum may take actions and adopt resolutions when at least ten Justices are present.

(2) The Plenum shall have competence to decide upon:

a) petitions proposing the annulment, pursuant to Article 87 para. 1, lit. a) of the Constitution of the Czech Republic [hereinafter "Constitution"], of an Act of Parliament [hereinafter "statute"] or individual provisions thereof;

b) petitions proposing the annulment, pursuant to Article 87 para. 1, lit. b) of the Constitution, of other enactments or individual provisions thereof;

c) a constitutional charge, under Article 87 para. 1, lit. g) of the Constitution, brought by the Senate against the President, as referred to in Article 65 para. 2 of the Constitution;

d) a petition by the President, under Article 87 para. 1, lit. h) of the Constitution, seeking the annulment of a concurrent resolution of the Assembly of Deputies and the Senate, as referred to in Article 66 of the Constitution;

e) disputes, under Article 87 para. 1, lit. j) of the Constitution, over whether a decision to dissolve a political party or some other decision relating to the activities of a political party is in conformity with constitutional acts and with statutes;

f) remedial actions, pursuant to Article 87 para. 1, lit. l) of the Constitution, from a decision of the President declining to call a referendum on the Czech Republic's accession to the European Union.

g) disputes, under Article 87 para. 1, lit. m) of the Constitution, over whether the manner in which the referendum on the Czech Republic's accession to the European Union was held is in conformity with the Constitutional Act on the Referendum on the Czech Republic's Accession to the European Union and with the statute issued in implementation thereof.

h) other matters, under Article 87 para. 1 of the Constitution, if a Panel has not resolved them due to the fact that no proposed resolution received a majority of votes (§ 21 para. 1);

i) the determination of the Court's position on a proposition of law which differs from a proposition of law announced by the Court in a previous judgment (§ 23);

j) petitions for rehearing of a proceeding and such reopened proceedings pursuant to §§ 119 to 119b

k) additional matters under Article 87 para. 1 of the Constitution, if it reserves them to itself;

l) the regulation of its internal relations;

m) the establishment of Panels and the rules for the distribution of the caseload among them.

3) The Plenum further makes decisions on petitions, pursuant to Article 87 para. 2 of the Constitution, for adjudging the conformity of treaties with the constitutional order.

## § 12

(1) At conferences each Justice is entitled, before a vote is taken on a matter, to submit a proposal for resolving it.

(2) Each Justice is required to vote for one of the proposals for resolving the matter submitted before a vote was taken.

(3) If none of the proposals for resolving the matter receives the necessary majority (§ 13), the Justices shall vote again but, prior to taking that vote, the

Justices whose proposals were voted upon shall state whether they continue to adhere to their positions; at this time, Justices may submit other proposals for resolving the matter.

(4) If the procedure under paragraphs 1 to 3 does not result in the adoption of a decision, the Justices shall vote on the two proposals which received the most votes in the preceding round of voting.

(5) In matters concerning the discontinuance of a disciplinary proceeding (§ 139 para. 1), objections to a ruling in a disciplinary proceeding (§ 142 paras. 1-3), or proposals for a ruling terminating a Justice's office (§ 144 para. 1), the vote shall be by secret ballot.

### § 13

The Plenum adopts a decision if a majority of the Justices present are in favour of it. If the matter concerns a decision under Article 87 para. 1, lit. a), g) or h), or Article 87 para. 2 of the Constitution, or a decision adopted on the basis of a proposition of law which differs from a proposition of law announced by the Court in an earlier judgment, it is adopted if at least nine Justices present are in favour of it.

### § 14

A Justice who disagrees with the decision of the Plenum in matters referred to in § 11 para. 2, lit. a) - k), or with its reasoning, has the right to have his differing opinion noted in the record of discussions and appended to the decision with his name stated.

### Panels

### § 15

(1) The Court shall create, from among its judges, four three-member Panels for decision-making in matters under Article 87 para. 1 of the Constitution which do not fall within the jurisdiction of the Plenum and in matters under § 43 para. 2.

(2) The Chairperson and Vice-Chairpersons may not be a permanent member of a Panel.

### § 16

Pursuant to rules laid down by the Plenum, the Chairperson shall prepare the work schedule, distributing the caseload among Panels for each calendar year.

### § 17

(1) The Chairperson appoints the Panel Chairpersons for a period of one year. A Justice may not be appointed to this position in two successive years.

(2) The Panel member who is senior by age shall substitute for the Panel Chairperson when she is absent.

#### § 18

(1) When a Panel member is absent, the Justice whom the work schedule assigns to that Panel shall temporarily substitute for that Panel member.

(2) The Chairperson or the Vice-Chairpersons may act as substitute members of a Panel.

#### § 19

(1) Panel Chairpersons shall call Panel meetings and direct their business.

(2) Panel are competent to take actions and adopt resolutions when all of their members are present; they adopt resolutions by majority vote. In order to adopt a resolution in matters under § 43 para. 2, the agreement of all Panel members is required.

#### § 20

(1) At conferences, each Panel member is entitled, before a vote is taken on a matter, to submit a proposal for resolving the matter.

(2) Each Panel member is required to vote for one of the proposals for resolving the matter submitted before a vote was taken.

(3) The voting shall be conducted such that each Panel member orally states with which of the submitted proposals for decision he agrees.

#### § 21

(1) If none of the proposals for decision on the merits of the matter receives a majority of votes pursuant to the procedure in § 20, the Panel Chairperson shall, without undue delay, submit the matter to the Plenum for its decision [§ 11 para. 2, lit. h)].

(2) With regard to other issues, if there is a tie vote in a Panel, the Chairperson's vote shall be decisive.

#### § 22

A Panel member who disagrees with the Panel's decision in a matter, or with its reasoning, has the right to have his differing opinion noted in the record of discussions and appended to the decision with his name stated.

## § 23

If in connection with its decision-making, a Panel determines upon a proposition of law differing from a proposition of law announced by the Court in a previous judgment, it shall submit the issue to the Plenum for its consideration. The Plenum's determination is binding on the Panel in further proceedings.

## § 24

In matters submitted to the Plenum [§ 11 para. 2, lit. h)], the Chairperson of the Court may open the envelope containing the record of the conference and of votes only with the Plenum's consent.

## § 25

### Ensuring Peace and Order

Assemblies [1] within 100 meters of the Constitutional Court building or of other locations where

the Court is conducting its proceedings are forbidden.

[1] Act. No 84/1990 Sb., on the Right of Assembly, as amended by Act No. 175/1990 Sb.

## § 25a

title omitted

(1) The Ministry of Interior or the Police of the Czech Republic shall make available to the Constitutional Court for the purposes of exercising its authority pursuant to this Act the following

- a) reference data from the basic registry of inhabitants,
- b) data from the agenda information system of the registry of inhabitants,
- c) data from the agenda information system of foreigners.

(2) The data made available pursuant to Section (1) Letter a) include

- a) surname,
- b) given names or names,
- c) date, place of their birth including district; in data entities born abroad also the

date, place and the state where they were born.

d) address of the residence,

e) date, place and district of death; in the event the data entity deceased outside the territory of the Czech Republic, date, death, place and state on the territory of which the death occurred; in the event a court decision has been issued on declaration of death, the date listed on the decision as the date of the death or day the data subject declared dead did not survive and the date on which such decision came into effect.

f) citizenship or if applicable, multiple citizenships.

(3) The data made available pursuant to Section 1 letter b) include

a) given name or names, surnames and where applicable the changes whereto, and their maiden names,

b) their date of birth,

c) their sex,

d) place and district of birth; should the person be a foreigner also the place and the state where the person was born,

e) their birth certificate number,

f) their citizenship,

g) the address of their permanent place of residence including previous addresses of permanent residence places,

h) the date of commencement of their permanent residence and if applicable the date when the data on their place of permanent residence was struck out or the date when their permanent residence on the territory of the Czech Republic ended,

i) data on deprivation or restriction on their legal capacity,

j) birth certificate number of the father, the mother and if applicable of any other legal representative; in the event one of the parents or any other legal representative does not have a birth certificate number then their given name, or names, surname and date of birth,

k) marital status, date when marital status was modified, and place where marriage was entered into,

l) the birth certificate number of spouse; should the spouse be a foreign national who has not been awarded a birth certificate number, their given name or names, surname and date of birth,

m) birth certificate number of the children,

n) adoption of children,

o) date, place and district of their death; should the person have died outside the territory of the Czech Republic then the date of the death and the place and the state where the death occurred,

p) the day on which the person was declared dead by a court decision or the day the person declared dead did not survive.

(4) The data made available pursuant to Section 1 Letter c) include

- a) the given names or names, the surname and if applicable changes thereto, the maiden surname,
- b) date of birth,
- c) their sex,
- d) place and state where the foreign national was born,
- e) the birth certificate number,
- f) their citizenship,
- g) type of their residency and the address of their place of residence,
- h) the number and the validity of their residence permit,
- i) commencement of the residency and if applicable the date when their residency ended,
- j) deprivation or restriction of their legal capacity,
- k) administrative or judicial expulsion and the period for which they are not allowed to enter the territory of the Czech Republic,
- l) marital status, date and place of the changes thereto, the given name or names of the spouse, surname of the spouse and their birth certificate number or their date of birth,
- m) the given name or names of their children, their surname, birth certificate number, should the child be a foreign national; in the event the birth certificate number has not been assigned then their date of birth,
- n) the given name or names and surname of their father, mother or any other legal representative, their birth certificate number, should they be a foreign national or should one of the parents or the legal representative not have a birth certificate number, then their given name or names, surname and date of birth,
- o) the date and place and district of their death; should the death have occurred outside the territory of the Czech Republic, then the state on the territory of which the death occurred, alternatively the date of death,
- p) the day on which the person was declared dead by a court decision or the day the foreign national declared dead did not survive.

(5) The data maintained as reference data in the basic registry of inhabitants shall be used from the agenda information system of the registry of inhabitants or from the agenda information system of foreigners solely in the event those are in the form preceding the current status.

(6) In specific cases always only such data made available may be used as is necessary to complete the specific task.

§ 26

The Seat of the Court

The seat of the Court shall be in the city of Brno.

## **S E C O N D P A R T - P R O C E E D I N G S B E F O R E T H E C O U R T**

### **C H A P T E R O N E - G E N E R A L P R O V I S I O N S**

#### § 27

##### The Institution of a Proceeding

- (1) A petition instituting a proceeding before the Court may be submitted by any person so authorized by this Statute [hereinafter "petitioner"].
- (2) The proceeding commences on the day the petition is delivered to the Court.

##### Parties and Secondary Parties to a Proceeding

#### § 28

- (1) The petitioner and those specified by this Statute shall be parties to a proceeding.
- (2) Persons to whom this Statute grants the status shall be secondary parties, unless they waive this status. They shall have the same rights and duties as parties to a proceeding.
- (3) If doubt should arise as to whether a person qualifies as a secondary party, the Court shall resolve the issue by ruling.
- (4) If in connection with its decision-making, a court is a party or a secondary party to a proceeding before the Court, the term "court" shall be understood to mean the relevant panel or individual judge.

#### § 29

In proceedings before the Court, a party or a secondary party may be represented only by an attorney to the extent provided for in special statutes and enactments. A party may have only one counsel in the same matter.

#### § 30

- (1) A natural or a legal person who is a party or a secondary party to a proceeding before the Court must be represented by an attorney to the extent provided for in special statutes and enactments.
- (2) If the state is a party or a secondary party to a proceeding before the Court, it shall be represented by the organizational unit of the State competent pursuant to a special legal enactment, and the head of that organizational unit, or the employee

thereof to whom she entrusts the task, shall act in the proceeding on the state's behalf; the state's right to have itself represented in the manner laid down in § 29 shall not, however, be affected thereby. If, pursuant to a special legal enactment, [2a] the State Office for Representation in Property Matters represents the state, that Office's employee so entrusted by the Director thereof shall act in the proceeding on the state's behalf; the same shall apply also in cases where, under the conditions laid down in a special legal enactment, [2a] a municipality is represented by the state in a proceeding, in which the State Office for Representation in Property Matters acts on its behalf before the Constitutional Court.

(3) Unless this Statute provides otherwise, that person authorized, by special statutes and enactments, to act on behalf of a governmental body or office shall act for that body or office in a proceeding before the Court. Their right to be represented by an attorney to the extent provided for by special statutes and enactments, is not affected thereby.

(4) The chairperson of a panel shall act on behalf of a court.

[2a] Act. No. 201/2002 Sb., on the Office for State Representation in Property Matters

## § 31

(1) In a proceeding before the Court, the counsel for a party under § 29 or § 30 para. 1 is not entitled to have a trainee attorney stand in for him.

(2) It must be explicitly stated in the power of attorney authorizing a person to act as a representative under § 29 or § 30 para. 1 that the power of attorney is given for the purpose of representation before the Court.

## § 32

### Rights and Duties of Parties

Parties and secondary parties are entitled to give their views on the petition instituting a proceeding, make submissions to the Court, examine the file (with the exception of voting records), make excerpts from and copies of it, take part in any oral hearing in the matter, put forward evidence, and be present during the taking of evidence conducted apart from an oral hearing.

## § 33

### The Language of Proceedings

(1) The Czech language shall be used in proceedings before the Court. Individuals may use their native language during oral hearings, or other proceedings in which individuals take part.

(2) If an individual party or a secondary party takes part in a proceeding, or if a witness or an expert witness gives evidence before the Court, in a language other than Czech, the Court shall call upon the assistance of an interpreter; with the agreement of the participants, an interpreter is not necessary if the

testimony is given in the Slovak language. It shall be stated in the record that an interpreter was used.

(3) Similarly, the Court shall call upon an interpreter if a deaf, mute, or deaf-mute person is taking part, if it is not possible to communicate with him in some other reliable manner.

### Petitions Instituting a Proceeding

#### § 34

(1) A petition instituting a proceeding shall be submitted to the Court in writing. The following must be evident from the petition: the person who is making it, the matter to which it relates, and that which is sought. The petition must be signed and dated. Further, the petition shall include a true description of the crucial facts and indicate the evidence which the petitioner will introduce, and it must be evident from it what the petitioner is claiming; the petition must contain other things called for by this Statute.

(2) A sufficient number of copies of the petition instituting a proceeding should be submitted so that the Court can retain one copy and one copy can be delivered to each party or secondary party who is referred to in the petition.

#### § 35

(1) A petition instituting a proceeding is inadmissible if it relates to a matter upon which the Court has already passed judgment and in other instances provided for by this Statute.

(2) A petition shall also be inadmissible in instances when the Court has already taken some action in the same matter; if one is submitted by an authorized petitioner, he has the right to take part, as a secondary party, in the proceeding concerning the earlier submitted petition.

### The Exclusion of a Justice

#### § 36

(1) A Justice shall be excluded from the consideration of and decision-making in a matter if her impartiality may be doubted due to the fact that she has some connection to the matter, a party, a secondary party, or the counsel of any of them.

(2) A Justice shall also be excluded if she was active in the same matter while performing some other office or profession, prior to becoming a Justice of the Court.

(3) Activities related to the preparation, consideration, or adoption of a statute or some other enactment are not considered the type of activities meant in paragraph 2.

### § 37

(1) A party to a proceeding may declare, at the beginning of the first oral hearing at the latest, that she objects to any of the Justices whom she considers to be biased. The objection must include the reasons therefore. A Justice to whom an objection is made is required to give his opinion thereon.

(2) A Justice may declare that he considers himself to be biased in a matter; he shall state his reasons in the declaration.

### § 38

(1) If the proceeding is before the Plenum, it shall decide whether to exclude the Justice; the Justice whom the decision on exclusion concerns shall not vote. If the proceeding is before a Panel, another Panel designated by the work schedule shall make the decision.

(2) With regard to the exclusion of an Assistant to a Justice, a court reporter, an expert witness, or an interpreter, the provisions of §§ 36 and 37 apply *mutatis mutandis*. If the matter is being decided by the Plenum, the Chairperson shall make the decision whether to exclude her, and if the matter is being decided by a Panel, the Chairperson of that Panel shall make the decision.

### § 39

#### Urgency of a Matter

The Court need not consider petitions in the order in which they were submitted if it decides by ruling that the matter, to which a particular petition relates, is urgent. The provisions of § 71d para. 1, § 97 para. 3 and § 113 shall not be affected by this section.

### § 40

## The Assignment of Petitions

(1) If the petition concerns a matter that the Court deals with in the Plenum, then the petition shall be assigned to the Justice designated by the court schedule (hereinafter "Rapporteur").

(2) If the petition concerns a matter within the jurisdiction of a Panel, it shall be assigned to a Justice who is a permanent member of a Panel and who is designated as the Rapporteur by the work schedule.

(3) If the Justice, designated under paragraphs 1 or 2 as the Rapporteur, is excluded from the matter by ruling, the Chairperson shall assign the petition to another Rapporteur designated for that purpose by the work schedule.

## § 41

### The Work of Assistants to a Justice

(1) Justices may assign to their Assistants

a) the task of refusing submissions which, as ascertained from the contents, are manifestly not a petition instituting a proceeding, and of notifying accordingly the person who made the submission;

b) should the petition instituting a proceeding not meet the requirements of this Statute, the task of notifying the petitioner accordingly and of setting for him a deadline by which the defects in the petition must be cured.

(2) Justices may also assign to their Assistants the procedural tasks of the Rapporteur pursuant to §42 Section 2 and 4, with the exception of the examination of witnesses.

(3) The Chairperson of the Constitutional Court may assign the tasks pursuant to Section 1 Letter a) to other officers of the Constitutional Court.

### The Work of Rapporteurs and Panels without an Oral Hearing

## § 42

(1) If the Rapporteur does not find there to be preliminary grounds for rejecting a petition under § 43 paras. 1 and 2, she shall prepare the matter for consideration on the merits by the Plenum or by her Panel.

(2) If the Rapporteur finds preliminary grounds for rejecting a petition in accordance with § 43 para. 2, she shall prepare the matter for consideration by her

Panel. If no ruling was adopted rejecting the petition on one of the preliminary grounds laid down in § 43 para. 2, the Rapporteur shall prepare the matter for consideration on the merits by the Plenum or by her Panel.

(3) The Rapporteur shall see to the necessary procedural work of the case, in particular, she shall see to the gathering of documentary evidence and the examination of witnesses, possibly even by means of another court, if such evidence was proposed by one of the parties and if, according to the current status of the proceeding, it might serve to establish the facts of the case.

(4) The Rapporteur shall, without delay, see to it that the petition is delivered to the other parties, and when appropriate also to secondary parties, with the request that they give their view upon it by the deadline which she designates or which is provided for by this Statute.

#### § 43

(1) Without holding an oral hearing and without the parties being present, the Rapporteur shall by preliminary ruling reject the petition, if:

- a) the petitioner fails to cure defects in the petition by the deadline designated therefore;
- b) the petition was submitted after the deadline for its submission laid down in this Statute;
- c) the petition was submitted by a person who is clearly not authorized to submit it;
- d) it is a petition over which the Court has no jurisdiction; or
- e) the submitted petition is inadmissible, unless this Statute provides otherwise.

(2) Without holding an oral hearing and without the parties being present, the Panel shall by preliminary ruling reject the petition, if:

- a) the petition is manifestly unfounded, or
- b) in relation to a petition submitted pursuant to § 64 para. 1 to 4, or pursuant to § 125d, § 71a para. 1, or § 119 para. 1, it finds grounds for its rejection in accordance with para. 1 or with lit. a).

(3) A preliminary ruling rejecting a petition pursuant to paragraphs 1 and 2 must be in writing, must state the reasons justifying it, and must contain the notice that an appeal from it is not permissible.

## Oral Hearings

### § 44

Unless the petition was dismissed by preliminary ruling without an oral hearing and without the parties being present, the Constitutional Court shall list an oral hearing if it may be expected to be material to the matter. An oral hearing shall be listed whenever stipulated by this Act or whenever the Constitutional Court shall be taking evidence.

### § 45

(1) Oral hearings before the Court shall be public; the Court may limit attendance by the public or may exclude the public altogether only if such is required by important interests of the state or of the parties to the proceeding, or by morality.

(2) Even if the public is excluded, the Court may, for important reasons, permit particular persons to be present at the hearing; however, it shall advise them of their duty to maintain secrecy concerning facts about which they learned during the course of the hearing, especially facts which are the subject of government, economic, official or commercial secrets, and it shall advise them concerning the criminal consequences of violating this duty.

(3) Even if the public is not excluded, the Court may deny access to the hearing to minors and to persons about whom there is concern that they might disturb the dignified course of the hearing.

### § 46

A summons to appear at an oral hearing must be delivered to parties, to secondary parties, and to their representatives sufficiently in advance of the hearing to allow them time to prepare, usually at least five days.

### § 47

At the oral hearing, the Justice who is presiding over the hearing (hereinafter "presiding Justice") shall first of all give the floor to the Rapporteur, who shall inform the Court of the contents of the petition instituting the proceeding and of the results of the proceeding before the Court up until that time; her report must not contain an opinion as to how the petition should be decided.

## The Taking of Evidence

### § 48

(1) The Court shall admit all evidence necessary to establish the facts of the case. It shall decide which of the proffered evidence it is necessary to admit and may also admit evidence other than that which has been proposed. It may appoint an individual Justice to take certain evidence outside of the oral hearing. It may also request another court to take certain evidence.

(2) All courts, public administrative bodies, and other state institutions shall, at the request of the Court, grant it assistance in procuring evidence to assist in its decision-making.

(3) A record shall be drawn up of all evidence which is taken outside of the oral hearing, and it shall be signed by the Justice, the court reporter, and other persons taking part. In the event of an oral hearing being held, the results of evidence tested in such a manner are to be communicated within the oral hearing.

#### § 49

(1) Any means which can serve to establish the facts of the case may be used as evidence. This includes, in particular, the testimony of witnesses, expert opinions, the reports and statements of state authorities and legal persons, documents, results of inquests, as well as the testimony of parties.

(2) It is not necessary to take evidence concerning generally known facts or facts known to the Court as a result of its official activities.

(3) After a proceeding is instituted, upon motion the Court may safeguard evidence if there is concern that it would not be possible to procure it later, or only with great difficulty. The Rapporteur shall have the evidence safeguarded by the court within the jurisdiction of which the threatened evidence is

found.

#### § 50

(1) Every citizen who is summoned is obliged to appear before the Court and testify as a witness. They must testify truthfully and withhold nothing. They may refuse to testify only in the case that it could expose them or persons close to them to criminal prosecution.

(2) Should the decision of the Court turn upon the assessment of facts for which expert knowledge is necessary, after hearing from the parties, the Court shall appoint one or more experts whom it shall question or to whom it shall assign the task of preparing a written expert opinion.

#### § 51

(1) A witness or an expert may not cite a duty of secrecy which is placed upon him by statutes or

other enactments if by resolution the Court relieves him of that duty in this case.

(2) The Court shall relieve witnesses or experts of this duty only if it concerns the protection of government, economic, commercial, or official secrets. In other cases, the duty of secrecy shall be retained, unless the witness or expert is relieved of the duty by the person whom it is intended to benefit.

## § 52

### Adjournment of Oral Hearings

(1) An oral hearing may be adjourned only for important reasons, which must be announced. If an oral hearing is adjourned, the presiding Justice shall, as a rule, indicate the day when it shall resume.

(2) When the oral hearing resumes, the presiding Justice shall give a report of what has occurred in the proceeding up until then and about evidence already taken.

## § 53

### Conferences and Votes

(1) Only the Justices and a court reporter may be present at the Plenum's conference and during voting by the Plenum; only members of a Panel and a court reporter may be present at a Panel's conference or during the voting by a Panel.

(2) When the Plenum decide, Justices may only take part in conferences and votes if they were present for the whole oral hearing immediately preceding a conference or a vote.

### Judgments, Rulings, and Resolutions of the Court

## § 54

(1) The Court shall decide the merits of the matter by judgment and all other issues by ruling.

(2) A judgment shall present reasons justifying the decision and shall include the notice that no appeal from the Court's decision is permissible.

## § 55

The Rapporteur shall prepare a draft of a judgment or ruling; however, if a proposal for a decision is adopted which differs considerably from the Reporter's draft, the judgment or ruling shall be prepared by a Justice designated by the presiding Justice.

## § 56

Judgments shall always be announced publicly in the name of the Republic. Judgments of the Plenum shall be announced by the Chairperson, and judgments of a Panel shall be announced by the Chairperson of that Panel.

## § 57

(1) The Court's judgments shall be published in the Collection of Laws of the Czech Republic (called "Sbírka zákonů České republiky", hereinafter "Collection of Laws") if they concern:

- a) petitions, under Article 87 para. 1, lit. a) or b) of the Constitution, proposing the annulment of a statute or some other enactment, or individual provisions thereof;
- b) a constitutional charge, under Article 87 para. 1, lit. g) of the Constitution, against the President, as referred to in Article 65 para. 2 of the Constitution;
- c) a petition by the President, under Article 87 para. 1, lit. h) of the Constitution, seeking the annulment of a concurrent resolution of the Assembly of Deputies and of the Senate, as referred to in Article 66 of the Constitution;
- d) on petitions, pursuant to Article 87 para. 2 of the Constitution, for adjudging the conformity of a treaty with the constitutional order;
- e) remedial actions from a decision of the President declining to call a referendum on the Czech Republic's accession to the European Union;
- f) the issue whether the manner in which a referendum on the Czech Republic's accession to the European Union was held is in conformity with the Constitutional Act concerning the Referendum on the Czech Republic's Accession to the European Union and with the statute issued in implementation thereof.

(2) The Court shall publish, in the Collection of Laws, the statement of the judgment and so much of the reasoning as makes clear the legal principle relied on by the Court, as well as the reasons which led to it. The Court may decide not to publish in the Collection of Laws the reasoning of a judgment in a matter annulling a statute or other enactment, or individual provisions thereof, if such statute or other enactment was not promulgated in the Collection of Laws or in the analogous preceding collection.

(3) If a proposition of law, announced by the Court in a judgment of the type that is not generally published in the Collection of Laws, is of general significance, the Court may decide to publish this proposition of law in the Collection of Laws.

(4) As soon as the final written version of it is ready, the Chairperson shall present to the editor of the Collection of Laws each judgment of the Court that is to be published in the Collection of Laws.

## § 58

(1) Judgments under § 57 para. 1, lit. a) are enforceable on the day they are published in the Collection of Laws, unless the Court decides otherwise.

(2) Judgments under § 57 para. 1, lit. b), c), e), and f) are enforceable when they are announced; the same applies to the Court's judgments, and under Article 87 para. 1, lit. e) of the Constitution, in remedial actions against a decision concerning the election of a Deputy or a Senator and its judgments,

under Article 87 para. 1, lit. f) of the Constitution, in cases of doubt concerning a Deputy or Senator's loss of eligibility for office or the incompatibility of some other position or activity with holding that office.

(3) Other judgments are enforceable upon the personal delivery of a copy of the final written version of it to each party.

## § 59

### The Collection of Judgments and Rulings of the Constitutional Court

(1) Every judgment adopted by the Court in a calendar year shall be published in the Collection of Judgments and Rulings of the Constitutional Court (called in Czech "Sbírka nálezů a usnesení Ústavního soudu", hereinafter "Collection of Decisions"), which the Court shall issue annually, for the use of the public, after the end of each calendar year. The Collection of Decisions may be published in instalments during the course of the year.

(2) Judgments shall be placed in the Collection of Decisions in the order in which they were announced, and they shall be consecutively numbered in this way, also within the framework of a calendar year.

(3) The Court shall publish, in the Collection of Decisions, the statement of the judgment and so much of the reasoning as makes clear the legal principle relied on by the Court, as well as the reasons which led to it. Information concerning the identity of the parties and the secondary parties, their representatives, witnesses, and experts shall not be published, provided this is stipulated by a special act or if

this be required pursuant to the significant interests of the persons concerned, or the state or morality. The decision is at the discretion of the officer in charge of the publication of the Collection of Decisions.

(4) Rulings may also be published in the Collections of Decisions if they were adopted by the Plenum. The provisions of paragraphs 1 through 3 apply analogously.

(5) The Chairperson shall oversee the publication of the Collection of Decisions, the duty for which may be assigned to one of the Vice-Chairpersons.

(6) Until the Judgements or Rulings designated for publication within the Collection of Decisions have been published in the Collection of Decisions the final versions of such decisions shall be available at the Constitutional Court or in a manner of remote access for perusal by any person.

## § 60

### The Delivery of Decisions and Notices

(1) Judgments, rulings, notices of defects in a petition, summonses to parties to an oral hearing, and other notifications to parties or their representatives shall be delivered to them in person.

(2) Written documents under paragraph 1 need not be delivered to secondary parties, provided they concern only parties to the proceeding.

(3) In other cases, the Rapporteur shall decide upon the means of delivery, according to the nature of the matter.

## § 61

### Disciplinary Measures

(1) The Chairperson, in matters before the Plenum, or the Chairperson of a Panel, in matters before a Panel, may by ruling impose a disciplinary fine of up to 100,000 Kè upon anyone who greatly impedes the progress of a proceeding, in particular by failing to appear before the Court without a serious excuse or by disobeying its orders, or upon anyone who disrupts the order of the Court or who makes a

grossly offensive submission.

(2) The execution of an enforceable ruling of the Court concerning the imposition of a disciplinary fine shall be governed by a special statute or some other enactment.[3]

(3) The Justice who imposed a disciplinary fine may subsequently remit it, even after the proceeding has concluded.

(4) Disciplinary fines shall accrue to the state.

[3] § 274(h) of Act No. 99/1963 Sb., the Code of Civil Procedure, as subsequently amended.

## § 62

### Costs of a Proceeding

(1) Proceedings before the Court are not subject to court fees.

(2) The costs of a proceeding arising from the taking of evidence before the Court and the costs of interpreting shall be charged to the budget of the Court.

(3) The legal costs incurred by a party or a secondary party for a proceeding before the Court, shall be borne by that party or a secondary party, unless this Statute provides otherwise.

(4) In justifiable cases according to the results of the proceeding, the Court may by ruling impose upon a party or a secondary party the obligation to pay, in whole or in part, the legal costs incurred by another party or a secondary party in the course of a proceeding.

(5) The cash outlays of a party, a secondary party, or their representatives, a party or secondary party's loss of wages, or attorney's fees shall be considered as a party's or secondary party's legal costs for a proceeding.

## § 63

### The Application of Rules of Court Procedure

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.

## **C H A P T E R T W O - P R O V I S I O N S C O N C E R N I N G S P E C I F I C P R O C E E D I N G S B E F O R E T H E C O U R T**

### **FIRST DIVISION - Proceedings on the Proposed Annulment of a Statute or some other Enactment**

## § 64

### The Submission of Petitions

(1) A petition, under Article 87 para. 1, lit. a) of the Constitution, proposing the annulment of a statute, or individual provisions thereof, may be submitted by:

- a) the President;
- b) a group of at least 41 Deputies or a group of at least 17 Senators;
- c) a Panel of the Court in connection with deciding a constitutional complaint;
- d) the government, under the conditions stated in § 118;
- e) anyone who submits a constitutional complaint under the conditions stated in § 74 of this Statute or who submits a petition for rehearing under the conditions stated in § 119 para. 4 of this Statute.

(2) A petition, under Article 87 para. 1, lit. b) of the Constitution, proposing the annulment of some other enactment, or individual provisions thereof, may be submitted by:

- a) the government;
- b) a group of at least 25 Deputies or a group of at least 10 Senators;
- c) a Panel of the Court in connection with deciding a constitutional complaint;
- d) anyone who submits a constitutional complaint under the conditions stated in § 74 of this Statute or who submits a petition for rehearing under the conditions stated in § 119 para. 4 of this Statute;
- e) the representative body of a region;
- f) the Public Protector of Rights ["Ombudsman"];
- g) the Interior Minister, in cases concerning petitions proposing the annulment of a generally binding municipal ordinances, of regional ordinances, or ordinances of the capitol city of Prague, under the conditions laid down in the acts governing territorial self-government [3a];
- h) the competent ministry or other central administrative office, in cases concerning petitions proposing the annulment of orders of a region or of the capitol city of Prague, under the conditions laid down in the acts governing territorial self-government [3a];

i) the director of a regional office, in cases concerning petitions proposing the annulment of municipal orders, under the conditions laid down in the acts governing territorial self-government [3b];

j) representative body of a municipality, in cases concerning petitions proposing the annulment of a legal enactment of a region within the territory of which the municipality lies.

(3) The head of a county office may also submit a petition proposing the annulment of an enactment, or individual provisions thereof, issued by a municipality.

(4) In connection with their decision-making under Article 95 para. 2 of the Constitution, courts are also authorized to submit petitions proposing the annulment of a statute or individual provisions thereof.

(5) The Plenum may institute a proceeding to annul a statute or some other enactment, or individual provisions thereof, if there are grounds therefore under § 78 para. 2.

(6) The petition of a group of Deputies or of a group of Senators under paragraphs 1 lit. b) or 2 lit. b) must be signed by the required number of Deputies or Senators.

(7) Where the term "statute" is used in this division, it shall also refer to those legislative measures of the Senate which were ratified by the Assembly of Deputies pursuant to Article 33 para. 5 of the Constitution.

[3a] Act No. 128/2000 Sb., on Municipalities (municipal foundation), as subsequently amended.

Act No. 129/2000 Sb., on Regions (regional foundation), as subsequently amended.

Act No. 131/2000 Sb., on the Capitol city of Prague, as subsequently amended.

[3b] Act No. 128/2000 Sb., as subsequently amended.

§ 65

[repealed]

§ 66

Inadmissible Petitions

(1) A petition shall be inadmissible if the statute or other enactment, or individual provisions thereof, which are proposed be annulled, lost force and effect prior to the petition's delivery to the Court, or if at that point it had not yet been promulgated either in the Collection of Laws or in some other legally prescribed manner.

(2) A petition shall further be inadmissible if, prior to its delivery to the Court, the constitutional act or the statute, with which the enactment under review is alleged to be in conflict, lost force and effect, or if at that point it had not yet been promulgated in the Collection of Laws.

## § 67

### Discontinuance of a Proceeding

(1) If the statute or other enactment, or individual provisions thereof, which are proposed to be annulled, lose force and effect prior to the completion of the proceeding before the Court, the proceeding shall be discontinued.

(2) The proceeding shall likewise be discontinued in the case of a petition proposing the annulment of a statute or some other enactment, or individual provisions thereof, due to their alleged conflict with a constitutional act or a statute, if the constitutional act or statute loses force and effect.

## § 68

### Advancement of Proceedings

(1) If a petition has not been rejected on preliminary grounds or if grounds for its discontinuance have not arisen during the course of the proceeding, the Court is obliged to act upon it and to resolve the matter, even without the submission of further petitions.

(2) In making its decision, the Court shall assess the contents of a statute or some other enactment from the perspective of its conformity with constitutional acts, or, if the matter concerns some other type of enactment, also with statutes, and ascertain whether it was adopted and issued within the confines of the powers set down in the Constitution and in the constitutionally prescribed manner.

## § 69

### Parties to a Proceeding

(1) The body which issued the statute or other enactment, which is proposed to be annulled, shall also be a party to the proceeding; without delay, the Rapporteur shall send it the petition that instituted the proceeding and a request to submit its

views on the petition within 30 days of receiving it.

(2) The Rapporteur shall immediately send the petition seeking to initiate the proceeding pursuant to Article 87 para. 1 letter b) of the Constitution to the Government unless the petition concerned is filed by the Government, thus the Government may notify the Constitutional Court within 30 days after the receipt of such a petition that it shall participate in the proceedings. Should the Government do so, it shall have the status of an secondary party.

(3) Without delay the Rapporteur shall also send the petition initiating a proceeding pursuant to Article 87 para. 1, letter a) and b) of the Constitution to the Public Protector of Rights, provided he is not the petitioner. Within 10 days of the petition's delivery to him, he may inform the Constitutional Court that he is intervening in the proceeding, in which case he shall have the status of a secondary party.

## Judgments and their Legal Consequences

### § 70

(1) If, after holding a proceeding, the Court comes to the conclusion that a statute, or individual provisions thereof, conflict with a constitutional act, or that some other enactment, or individual provisions thereof, conflict with a constitutional act or a statute, it shall declare in its judgment that such statute or other type of enactment, or individual provisions thereof, shall be annulled on the day specified in the judgment.

(2) If, after holding a proceeding, the Court comes to the conclusion that no grounds have been adduced for the invalidation of the statute or other enactment, or individual provisions thereof, it shall reject the petition on the merits.

(3) If the Court annuls a statute, or individual provisions thereof, on the basis of which implementing regulations have been issued, then the Court shall also state in its judgment which of the implementing regulations, or which individual provisions thereof, shall lose force and effect simultaneously with the statute.

### § 71

(1) If, on the basis of a statute or some other enactment which the Court has annulled, a court in a criminal proceeding has passed a judgment which has acquired legal effect but has not yet been enforced, the invalidation of this statute or other enactment shall constitute grounds for reopening the proceeding in accordance with the provisions of the law on criminal judicial proceedings.

(2) Other legally effective decisions issued on the basis of a statute, or some other enactment, which has been annulled remain unaffected; however, rights and duties arising from such decisions may not be enforced.

(3) The provisions of paragraphs 1 and 2 apply also in cases when a part of a statute or some other enactment, or any of the provisions thereof, is invalidated.

(4) Otherwise rights and duties flowing from legal relations created prior to the invalidation of the statute, or other type of enactment, remain unaffected.

**SECOND DIVISION - Proceedings on the Conformity with Constitutional Acts of International Treaties under Articles 10a and 49 of the Constitution**

## § 71a

### The Submission of Petitions

(1) A petition, pursuant to Article 87 para. 2 of the Constitution, for adjudging the conformity of a treaty with a constitutional act may be submitted by:

a) one of the chambers of Parliament, as of the moment when the treaty is submitted to it for its consent to ratification, until the moment when the treaty receives that consent,

b) a group of at least 41 Deputies or a group of at least 17 Senators, from the moment when the Parliament has given its consent to the ratification of the treaty, until the moment when the President of the Republic ratifies the treaty,

c) a group of at least 41 Deputies or a group of at least 17 Senators, from the declaration of the results of a referendum in which consent to the ratification of a treaty is given, until the moment when the President of the Republic ratifies the treaty,

d) the President of the Republic, from the moment when the treaty was submitted to him for ratification.

(2) A petition of a group of Deputies or a group of Senators under paragraph 1, lit. b) or c) must be signed by the prescribed number of Deputies or Senators.

(3) Should the treaty not have been drawn up in an authentic Czech version, at least one of the authentic language versions of the treaty, as well as a Czech translation thereof, must be submitted as an attachment to the petition.

## § 71b

### Inadmissible Petitions

(1) A petition shall be inadmissible if it was not submitted in accordance with § 71a paras. 1 and 2.

(2) A petition shall further be inadmissible, if the constitutional act with which, according to the petition, the treaty conflicts, loses force and effect prior to the petition's submission to the Constitutional Court.

#### § 71c

##### Parties to the Proceeding

In addition to the petitioner, the Parliament, the President of the Republic, and the government shall also in all cases be parties to the proceeding.

#### § 71d

##### Advancement of Proceedings

(1) If a party to the proceeding so requests, the Constitutional Court shall consider the petition in preference to other petitions received before it and without undue delay.

(2) If a petition has not been rejected on preliminary grounds or if grounds for its discontinuance have not arisen during the course of the proceeding, the Court is obliged to act upon it and to resolve the matter, even without the submission of further petitions.

(3) In its decision-making the Constitutional Court shall assess the treaty's content from the perspective of its conformity with the constitutional order.

#### § 71e

##### Judgments and their Legal Consequences

(1) If, after holding a proceeding, the Court comes to the conclusion that the international treaty is in conflict with the constitutional order, in its judgment it shall declare such non-conformity; in its judgment it shall state the provisions of the constitutional order with which the treaty conflicts.

(2) If, after holding a proceeding, the Court comes to the conclusion that the treaty is not in conflict with the constitutional order, in its judgment it shall declare that the treaty's ratification would not be in conflict with the constitutional order.

(3) A judgment of the Constitutional Court under paragraph 1 is a hindrance to the treaty's ratification until such time as the non-conformity shall be cured.

## Constitutional Complaints

### § 72

(1) A constitutional complaint may be submitted:

a) pursuant to Article 87 para. 1, lit. d) of the Constitution, by a natural or legal person, if she alleges that her fundamental rights and basic freedoms guaranteed in the constitutional order (hereinafter "constitutionally guaranteed fundamental rights and basic freedoms") have been infringed as a result of the final decision in a proceeding to which she was a party, of a measure, or of some other encroachment by a public authority (hereinafter "action by a public authority");

b) pursuant to Article 87 para. 1, lit. c) of the Constitution, by the representative body of

a municipality or of a higher self-governing region (hereinafter "self-governing region"), if it

alleges that the self-governing region's guaranteed right to self-government has been

infringed as the result of an unlawful encroachment by the state.

(2) Unless otherwise provided in this Statute, the general provisions of this Statute concerning petitions shall apply to constitutional complaints, and the general provisions of this Statute concerning

petitioners to persons who submit a constitutional complaint (hereinafter "complainant").

(3) A constitutional complaint may be submitted within 60 days of the delivery of the decision in the final procedure provided by law to the complainant for the protection of his rights; such procedures are understood to mean ordinary remedial procedures, extraordinary remedial procedures, with the exception of a petition for rehearing, and other procedures for the protection of rights with the assertion of which is associated the institution of a judicial, administrative, or other legal proceeding.

(4) Should an extraordinary remedial procedure be rejected as inadmissible by the body which decides thereupon pursuant to its discretionary authority, a constitutional complaint may be submitted, within a period of 60 days from the delivery of such decision, against the preceding decision on a procedure for the

protection of rights which was contested by means of the extraordinary remedial procedure.

(5) If the law affords a complainant no procedure for the protection of his rights, the constitutional complaint can be submitted within 60 days of the day the complainant learned of the encroachment by a public official upon one of his constitutionally guaranteed fundamental rights or basic freedoms, at the very latest, however, within one year of the day when this encroachment occurred.

(6) A copy of the decision in the final procedure for the protection of rights, and where appropriate also a copy of the decision rejecting an extraordinary remedial procedure on the grounds stated in para. 4, must be attached to the constitutional complaint. If the complainant also seeks the protection of his rights by means other than procedures under para. 3, he is obliged to inform the Constitutional Court of that fact without delay.

### § 73

(1) A political party may submit a petition, under Article 87 para. 1, lit. j) of the Constitution, if it alleges that a decision dissolving it or some other decision relating to its activities is not in accord with

constitutional acts or with statutes.

(2) A petition under paragraph 1 may be submitted within a period of 30 days. This period starts to run on the day when the decision in the final procedure which the law affords political parties for the protection of their rights acquires legal force; if the law affords no such procedure, the period starts to run on the day when the decision mentioned in para. 1 acquires legal force.

(3) Otherwise the provisions in this division apply to petitions pursuant to para. 1 and for proceedings on them.

### § 74

A complainant may submit, together with his constitutional complaint, a petition proposing the annulment of a statute or some other enactment, or individual provisions thereof, the application of which resulted in the situation which is the subject of the constitutional complaint, if the complainant alleges it to be in conflict with a constitutional act, or with a statute, where the complaint concerns some other enactment.

### § 75

(1) A constitutional complaint is inadmissible if the complainant failed to exhaust all procedures afforded him by law for the protection of his rights (§ 72 para. 3);

that also applies to extraordinary remedial procedures which the body that decides thereupon has discretionary authority to reject as inadmissible (§ 72 para. 4).

(2) The Constitutional Court shall not reject a constitutional complaint, even though it does not satisfy the condition stated in the preceding paragraph, if:

- a) the significance of the complaint extends substantially beyond the personal interests of the complainant, so long as it was submitted within one year of the day when the events which are the subject of the constitutional complaint took place, or
- b) the proceeding in an already filed remedial procedure under paragraph 1 is being considerably delayed, which delay gives rise to or may give rise to serious and unavoidable detriment to the complainant.

## § 76

### Parties and Secondary Parties to a Proceeding

(1) The complainant and the state body or other public authority, against the encroachment of which the constitutional complaint is directed, shall be parties to the proceeding on the constitutional complaint.

(2) Other parties to a prior proceeding, the contested decision of which gives rise to the complaint, shall be secondary parties. If the complaint concerns a criminal proceeding, the parties to that proceeding shall be secondary parties.

(3) The Court may grant the status of a secondary party to other persons who demonstrate a legal interest in the outcome of the proceeding.

## § 77

### Discontinuance of Proceedings

The complainant may withdraw his constitutional complaint only up until the time when the Court retires for its final conference; in such a case, the Court will discontinue the proceeding.

## § 78

### Suspension of Proceedings

(1) If the complainant submitted, together with the constitutional complaint, a proposal for the annulment of a statute or some other enactment pursuant to § 74, the Panel shall suspend the proceeding and submit the proposal for the annulment of the statute or other enactment to the Plenum for its decision under Article 87 para. 1, lit. a) or b) of the Constitution. If the Plenum has jurisdiction to consider a

constitutional complaint, it shall also consider a proposal for the annulment of some other enactment under Article 87 para. 1, lit. b) of the Constitution.

(2) If in connection with deciding a constitutional complaint, a Panel comes to the conclusion that a statute or some other enactment, or individual provisions thereof, the application of which resulted in the situation which is the subject of the constitutional complaint, is inconsistent with a constitutional act, or with a statute, if the complaint concerns some other enactment, it shall suspend the proceeding and submit to the Plenum a proposal, pursuant to Article 87 para. 1, lit. a) or b) of the Constitution, for the annulment of that statute or other enactment. Should the Plenum come to such a conclusion in connection with deciding a constitutional complaint, it shall institute and bring to conclusion a proceeding under Article 87 para. 1, lit. a) or b) of the Constitution.

## § 79

### Exclusion of Suspensive Effect

(1) Constitutional complaints shall not have suspensive effect. A petition under § 73 para. 1, appealing from a decision dissolving a political party or disallowing its activities, shall have suspensive effect.

(2) Upon a motion of the complainant, the Court may suspend the enforceability of a contested decision, if such would not be inconsistent with important public interests and so long as the complainant would suffer, due to the enforcement of the decision or the exercise of the right granted to a third person by the decision, a disproportionately greater detriment than that which other persons would suffer while enforceability is suspended.

## § 80

### Provisional Measures

(1) If a constitutional complaint is directed at some encroachment of a public authority other than a decision by it, then in order to avert threatened serious harm or detriment, in order to forestall a threatened intervention by force, or from some other weighty public interest, the Court may enjoin the public authority from continuing in its actions ("provisional measures").

(2) The Court may order provisional measures without oral proceedings. In especially urgent cases, the views of other parties or of secondary parties on a proposal under paragraph 1 are not required.

(3) The Court's resolution on provisional measures shall lose force and effect as a result of the announcement of the Court's judgment in the matter, unless the Court has already previously cancelled

them because the reasons for which they were ordered had ceased to exist.

## § 81

### Relation to the Prior Proceeding

The Court is not bound by the findings of fact made in an earlier proceeding.

## § 82

### The Judgment and its Legal Consequences

(1) In its judgment, the Court shall hold either that it grants the constitutional complaint in its entirety, rejects it in its entirety, or grants it in part and rejects it in part.

(2) If the Court grants the constitutional complaint, it shall declare in its judgment:

a) for constitutional complaints under Article 87 para. 1, lit. d) of the Constitution, which of the constitutionally guaranteed rights or freedoms and which provision of a constitutional act was infringed, and which encroachment by a public authority resulted in the infringement;

b) for constitutional complaints under Article 87 para. 1, lit. c) of the Constitution, what the infringement of the legally guaranteed right to self-government consists in, which constitutional act or statute was infringed, and which encroachment by a public authority resulted in the infringement;

c) for petitions under Article 87 para. 1, lit. j) of the Constitution, in what way the decision dissolving a political party or some other decision affecting its activities is incompatible with a constitutional act or a statute.

(3) If it grants the constitutional complaint of a natural or legal person under Article 87 para. 1, lit. d) of the Constitution, the Court shall:

a) annul the contested decision of the public authority, or

b) if a constitutionally guaranteed fundamental right or basic freedom was infringed as the result of an encroachment by a public authority other than a decision, enjoin the authority from continuing to infringe this right or freedom and order it, to the extent possible, to restore the situation that existed prior to the infringement.

(4) If it grants the constitutional complaint of a representative body of a self-governing region under Article 87 para. 1, lit. c) of the Constitution, the Court shall:

a) annul the contested decision of the state body, or

b) if the guaranteed right to self-government was infringed as the result of an encroachment by the state other than a decision, enjoin the relevant state body from continuing to infringe the right to self-government and order it, to the extent possible, to restore the situation that existed prior to the infringement.

(5) If the Court grants a political party's petition pursuant to Article 87 para. 1, lit. j) of the Constitution, the Court shall annul the contested decision.

## § 83

### Reimbursement of Attorney's Fees

(1) Should the personal situation or financial means of the complainant justify it, especially if she has insufficient financial means to pay the costs connected with her representation (§ 29 and § 30 para. 1)

(hereinafter "attorney's fees), and if the constitutional complaint was not rejected on procedural grounds, then on the basis of the complainant's motion submitted prior to the first oral hearing, the Rapporteur shall rule that the complainant's attorney's fees shall be paid by the state, in whole or in part.

(2) The Rapporteur shall rule on the complainant's motion and shall deliver the ruling to the complainant and her representative. If the Rapporteur grants the motion in full, the ruling need not include a statement of his reasons.

(3) The Court shall pay the attorney's fees from its budget.

(4) Until the proceeding is completed, the Rapporteur may annul or amend, possibly even with retroactive effect, the ruling under paragraph 2, if it is discovered that the situation of the complainant does not justify or did not justify the ruling made under paragraph 1.

## § 84

### Payment of Attorney's Fees

(1) After the conclusion of the proceeding, the Court shall pay the amounts described in § 83 to the counsel. In justified cases, it shall grant the counsel, upon his motion, a reasonable advance payment.

(2) If the Court awards a complainant, whose attorney's fees are paid by the state (§ 83), reimbursement of the costs of the proceeding, then the person upon whom such reimbursement of costs was imposed is obliged to pay the Czech Republic that portion of the reimbursed costs which the plaintiff was awarded in payment of his attorney's fees. The Court shall resolve this issue in the resolution concerning the reimbursement of the expenses of the proceeding.

(3) The amounts paid as reimbursed expenses of such proceedings shall become revenue of the state budget.

**FOURTH DIVISION - Proceedings in Remedial Actions against a Decision Concerning the Certification of the Election of a Deputy or a Senator**

## Remedial Actions

### § 85

(1) A remedial action, under Article 87 para. 1, lit. e) of the Constitution, against a decision concerning the certification of the election of a Deputy or a Senator (hereinafter "remedial action") may be brought by:

- a) a Deputy, a Senator, or the electoral party for which the Deputy or Senator stood as a candidate, against a decision that she was not validly elected;
- b) a person whose electoral complaint, pursuant to the elections law, was granted against a decision of the appropriate chamber of the Parliament, or a body thereof, concerning the certification of the validity of a Deputy's or Senator's election.

(2) A person authorized to bring a remedial action may lodge one within ten days of the day she was notified of a decision pursuant to paragraph 1.

### § 86

The Court shall always hold an oral hearing in remedial actions under § 85.

### § 87

In all other respects, the general provisions of this Statute concerning petitions to institute a proceeding shall apply to remedial actions, and the general provisions of this Statute concerning petitioners to the persons who bring a remedial action.

### § 88

## Parties and Secondary Parties to a Proceeding

(1) The body which adopted the decision that a Deputy or Senator was or was not validly elected shall also be a party to the proceedings in a remedial action.

(2) If a Deputy or Senator lodges a remedial action under § 85 para. 1, lit. a), the electoral party for which that Deputy or Senator stood as a candidate shall be a secondary party to the proceeding. If a remedial action is brought by an electoral party, the Deputy or Senator to whom the remedial action under § 85 para. 1, lit. a) relates shall be a secondary party to the proceeding.

(3) A Deputy or Senator shall also be a secondary party to a remedial action under § 85 para. 1, lit. b), if the remedial action is brought against the certification of her election.

## § 89

### The Exclusion of Suspensive Effect

Remedial actions against a decision concerning the certification of the election of a Deputy or a Senator shall not have suspensive effect.

## § 90

### Dismissal of an Action

(1) In a remedial action under § 85 para. 1, lit. a), the Court shall dismiss the action if the party which brought the action withdraws it.

(2) In a remedial action under § 85 para. 1, lit. b), the Court shall dismiss the action if the party who brought the action withdraws it or if the Deputy or Senator to whom the action relates relinquishes his

seat.

(3) The Court shall also dismiss the action in the event that the Deputy or Senator to whom the action relates dies. If that person's spouse or a relative in the direct line seeks the continuation of the action within one month of the death, it shall be resumed.

## § 91

### The Judgment and its Legal Consequences

(1) In its judgment, the Court shall either grant or deny the remedial action.

(2) If the Court grants the remedial action, it shall declare in its judgment that,

a) the Deputy or Senator was validly elected, if it is deciding an action under § 85 para. 1, lit. a), or

b) the Deputy or Senator was not validly elected, if it is deciding an action under § 85 para. 1, lit. b).

(3) Upon the announcement, pursuant to § 56, of the Court's judgment granting the action, the decisions of other authorities which are in conflict with the judgment, shall lose force and effect.

(4) The presiding Justice shall prepare a certificate of the statement of the judgment, which she shall present to all parties and secondary parties attending.

**FIFTH DIVISION - Proceedings in Cases of Doubt concerning a Deputy or Senator's Loss of Eligibility for Office or the Incompatibility under Article 25 of the Constitution of some other Position or Activity with Holding that Office**

## § 92

### Submission of Petitions

(1) Where doubt exists as to whether or not a Deputy or Senator has lost the right to his seat for the reasons stated in Article 25 lit. d) or f) of the Constitution, petitions requesting a determination of whether the Deputy or Senator has lost the right to his seat may be submitted to the Court by:

a) the Deputy or Senator whose seat is at issue;

b) the Chairperson of the Assembly of Deputies, if the petition concerns a Deputy, or the Chairperson of the Senate, if it concerns a Senator;

c) a group of at least 20 Deputies, if the petition concerns a Deputy, or a group of at least 10 Senators, if it concerns a Senator.

(2) The provisions of § 64 para. 4 apply analogously.

## § 93

### Parties to the Proceeding

In a proceeding concerning whether a Deputy or Senator has lost the right to his seat, the Deputy or Senator whose seat is at issue shall always be a party, as shall the Chairperson of the Assembly of Deputies, if the petition concerns a Deputy, or the Chairperson of the Senate, if it concerns a Senator, even if they are not the petitioner.

## § 94

### Proceedings

(1) The Court shall always hold an oral hearing for petitions under § 92 para. 1.

(2) The Court shall discontinue the proceeding if the petitioner withdraws his petition or if the Deputy or Senator whose seat is at issue acknowledges that he has lost his seat.

(3) The Court shall also discontinue the proceeding in the event of the death of the Deputy or Senator to whom the appellate remedy relates. If that person's spouse or a relative in the direct line seeks the continuation of the proceeding within one month of the death, it shall be resumed.

## § 95

### Judgments

(1) In its judgment, the Court shall either hold that the Deputy or Senator has lost her seat for the reasons stated in Article 25 lit. d) or f) of the Constitution, or it shall declare that the petitioner has not

adduced facts which would constitute grounds for the loss of a seat under Article 25 lit. d) or f).

(2) The presiding Justice shall prepare a certificate of the statement of the judgment, which he shall present to all parties attending.

#### **SIXTH DIVISION - Proceedings on a Constitutional Charge Brought against the President**

## § 96

### High Treason

For the purposes of this Statute, high treason shall consist in actions of the President directed against the sovereignty and territorial integrity of the Republic, as well as actions against its democratic order.

## § 97

### Constitutional Charges

(1) Pursuant to Article 87 para. 1, letter g) of the Constitution and on the basis of a charge by the Senate, the Court shall decide whether the President committed high treason or gross violation of the Constitution or other segment of the constitutional order. Such a proceeding is instituted by the delivery of the charge to the Court.

(2) A constitutional charge against the President pursuant to Article 65 para. 2 of the Constitution (hereinafter "constitutional charge") must contain a precise description of the conduct by which the President is alleged to have committed high treason, together with a statement of the evidence upon which the charge is

based.

(3) The Court shall deal with the constitutional charge immediately, giving it priority over all other matters.

(4) The general provisions of Chapter One of this part of the Statute shall not be applicable to a proceeding on a constitutional charge with the exception of §§ 36 to 43, §§ 52 to 59, and § 61.

§ 98

#### Dismissal of the Charge

(1) If prior to retiring for its final conference, the Senate delivers to the Court a resolution withdrawing the charge, the Court shall dismiss the charge.

(2) The Court shall also dismiss the charge in the event that the President dies after the proceeding is instituted. If the President's spouse or a relative in the direct line seeks the continuation of the proceeding within one month of the death, it shall be resumed.

(3) The fact that the President resigns from office after the proceeding has been instituted or that his mandate lapses upon the expiration of his electoral term does not represent grounds for dismissal of the charge.

§ 99

#### Representation in the Proceeding

The Chairperson of the Senate, or a person to whom the Senate entrusts the duty, shall act before the Court on behalf of the Senate in a proceeding on a constitutional charge.

§ 100

#### Defence Counsel

If the President is defending a constitutional charge, he has the right to choose for himself one or more defence counsel, at least one of whom shall be an attorney.

#### Oral Hearings

§ 101

(1) As needed, the Rapporteur shall complete the investigation carried out by the Senate, or alternatively invite the Senate to complete the investigation and charge,

and make preparations for the oral hearing

(2) The Court shall always hold an oral hearing for a constitutional charge.

## § 102

The Court shall deliver the constitutional charge to the President and notify him and the representative of the Senate of the time and venue of the oral hearing at least ten days in advance thereof. At the same time, it shall make known to the President that the hearing will be conducted in his absence if he fails to appear at it without proper justification or if he leaves prematurely during the course of the hearing without adequate explanation.

## § 103

(1) The presiding Justice shall open the oral hearing by stating the matters with which the proceeding will deal, after which he shall determine whether the persons who were summoned to or notified of the oral hearing have appeared, and then he shall ascertain their identity.

(2) If the President or the representative of the Senate (hereinafter "the parties") is of the opinion

that measures taken by the presiding Justice during the proceeding have prejudiced the hearing, he may request that the Plenum decide that issue.

(3) If any of the summoned persons fails to appear, after hearing from the parties, the Court shall

decide whether it is possible to conduct the oral hearing or if it must be adjourned.

(4) After the tasks called for in the preceding provisions have been carried out, the representative

of the Senate, at the request of the presiding Justice, shall read out the constitutional charge. After the charge has been read out, the presiding Justice shall allow the President and his defence counsel the opportunity to express their views thereon; the evidentiary phase of the hearing shall be conducted thereafter.

(5) The President, his defence counsel, and the representative of the Senate have the right to express their views upon the evidence presented, question the witnesses and experts, and submit proposals for supplementing the evidence.

(6) If no further evidence is proposed or if it is decided that no further evidence will be taken, the

presiding Justice shall bring to a close the evidentiary phase of the hearing and give the representative of the Senate and thereafter the President and his defence counsel the opportunity to make a closing statement. Thereafter the Court shall retire for its final conference.

(7) If upon consideration of the closing statements, or if during the final conference, the Court finds it is necessary to clarify additional matters, it may adopt a resolution to supplement the evidence and resume the proceeding.

(8) After the supplementary taking of evidence, the presiding Justice shall once again give the floor to the representative of the Senate and to the President and his defence counsel for an additional closing statement.

## § 104

### The Judgment and its Legal Consequences

(1) After the conclusion of the oral hearing, the Court shall either uphold the charge and declare that the President committed high treason or gross violation of the Constitution or other segment of the constitutional order, or it shall acquit him of the constitutional charge.

(2) As soon as a judgment, upholding the charge, is announced pursuant to § 56, the President shall lose the Presidency as well as eligibility to reacquire it in the future. He shall have no right to the remuneration or other benefits that, pursuant to special statute, the President should receive after leaving office.

(3) The presiding Justice shall prepare a certificate of the statement of the judgment, which he shall present to all parties attending.

### Reopened Proceedings

## § 105

(1) A person who, according to the judgment of the Court, committed high treason or gross violation of the Constitution or other segment of the constitutional order may request that the Court reopen the proceeding on the constitutional charge, if:

- a) the Court's judgment was influenced by the criminal act of another person;
- b) he introduces new facts or evidence which, without fault on his part, he was not able to present in the original proceeding and which in and of itself, or in conjunction with facts and evidence already known earlier, might have led to his acquittal on the constitutional charge.

(2) After the death of the person mentioned in paragraph 1, his spouse or a relative

in the direct line may request that the Court reopen the proceeding on the constitutional charge.

#### § 106

Without an oral hearing, the Court shall make a decision on the request to reopen the proceeding. A reopened proceeding shall be conducted on the basis of the original constitutional charge.

#### § 107

Even if the person mentioned in § 105 para. 1 is absolved of the constitutional charge in a reopened proceeding, he shall not regain the lost Presidency.

#### § 108

Unless this Statute provides otherwise, the Court shall apply the relevant provisions of the Code of Criminal Procedure in a proceeding on a constitutional charge.

**SEVENTH DIVISION - Proceedings on a Petition of the President Proposing the Annulment of a Joint Resolution of the Assembly of Deputies and Senate pursuant to Article 66 of the Constitution**

#### § 109

##### Submission of the Petition

(1) If the Assembly of Deputies and the Senate adopts a concurrent resolution pursuant to Article

66 of the Constitution declaring that, due to weighty reasons, the President is unable to carry out the duties of her office, the President may petition the Court to annul this resolution.

(2) The President may submit a petition under paragraph 1 from the day on which the Assembly of Deputies and Senate adopted the concurrent resolution pursuant to Article 66 of the Constitution until ten days following the day when, in accordance with a concurrent resolution of the Assembly of Deputies and the Senate, the President may once again carry out the duties of her office.

#### § 110

##### Dismissal of the Proceeding

The President may withdraw a petition under § 109 up until the time when the Court retires for its final conference. In such a case, the Court shall dismiss the petition. The Court shall also dismiss the petition if the President dies.

## § 111

### Parties to the Proceeding

The Assembly of Deputies and the Senate shall also be parties to the proceeding.

## § 112

### Requests for Evidence

At the Court's request, the Assembly of Deputies and the Senate shall, without delay, submit to the Court the evidence which served as the basis of their resolution, and possibly present additional evidence concerning the fact that, at the time the resolution was adopted and during the period it has been in effect, the President was unable or is unable, for weighty reasons, to carry out the duties of the Presidency.

## § 113

### Oral Hearings

The Court shall open an oral hearing concerning the petition of the President, pursuant to § 109, within five days of its delivery to the Court at the latest.

## § 114

### Provisional Measures

Upon the motion of the President, the Court may, as a provisional measure, suspend the exercise of powers pursuant to Article 66 of the Constitution and, in the case of statutes not yet promulgated pursuant to Article 52 of the Constitution, suspend the promulgation of statutes with regard to which the President was not able to exercise his power under Article 50 para. 1 of the Constitution.

### The Judgment and its Legal Consequences

## § 115

(1) The Court shall make a decision upon a petition under § 109 within 15 days of its delivery.

(2) The Court shall decide whether, at the time the Assembly of Deputies and the Senate adopted a concurrent resolution pursuant to Article 66 of the Constitution, the President was unable, due to weighty reasons, to discharge the office of the Presidency and, if necessary, until when this impediment to his exercise of the Presidency continued.

(3) If the Court decides that, at the time the Assembly of Deputies and the Senate adopted a concurrent resolution pursuant to Article 66 of the Constitution, there were not any weighty reasons which prevented the President from discharging the office of the Presidency or that they ceased to exist while this resolution was in effect, in its judgment it shall annul such concurrent resolution of the Assembly of Deputies and the Senate in whole, or with regard to the relevant time period.

(4) If the Court decides that, at the time the Assembly of Deputies and the Senate adopted a concurrent resolution, there existed weighty reasons which prevented the President from discharging the office of the Presidency and that they had not yet ceased to exist by the time the Court adopted its judgment, it shall reject the President's petition to annul the concurrent resolution of the Assembly of Deputies and the Senate.

#### § 116

If during a time when, according to the findings of the Court, no weighty reasons existed which prevented the President from carrying out the duties of the Presidency, the Prime Minister, the Chairperson of the Assembly of Deputies or, as the case may be, the Chairperson of the Senate effected any acts pursuant to Article 66 of the Constitution, such acts shall not lose force and effect.

EIGHTH DIVISION - Proceedings concerning Measures Necessary to Implement a Decision of an International Court

#### § 117

##### International Court

For the purpose of this Statute, the term "international tribunal" shall mean any international body whose decisions are binding for the Czech Republic pursuant to an international treaty which forms a part of the legal order (hereinafter „international treaty“).

#### § 118

##### Petition Proposing the Annulment of some Legal Enactment

(1) If an international court finds that an obligation resulting for the Czech Republic from an international treaty has been infringed by the encroachment of a public authority, especially that, due to such an encroachment, a human right or fundamental freedom of a natural or legal person was infringed, and if such infringement was based on a legal enactment in force, the government shall submit to the Court a petition proposing the annulment of such legal enactment, or individual provisions thereof, if there is no other way to assure it will be repealed or amended. In such a case, § 35 para. 1 on the admissibility of petitions

instituting a proceeding in matters about which the Court has already decided, shall not apply.

(2) In proceedings pursuant to para. 1, the Court shall proceed in accordance with the First Part of this Chapter.

### Petition for Rehearing

#### § 119

(1) Should the Constitutional Court have decided in a matter in which an international court found that, as the result of the encroachment of a public authority, a human right or fundamental freedom was infringed in conflict with an international treaty, a petition for rehearing may be submitted against such decision of the Constitutional Court under the conditions set down in this Statute.

(2) A petition for rehearing before the Court may be submitted by a person who was a party to the proceeding before the Court in a matter mentioned in para. 1 and in whose favour the international court decided.

(3) A petition for rehearing may be submitted within six months of the day the decision the international court handed down becomes final in accordance with the relevant international treaty.3c) In addition to the general requirements for a petition, the petition must also contain a designation of the Court's decision against which the petition is directed and a designation of the international court's decision on which the petition rests, and it must describe in what consists the conflict that was found between the Court's decision and that of the international court.

(4) The petitioner may submit, together with the petition for rehearing, a petition proposing the annulment of a statute or other legal enactment, or individual provisions thereof, the application of which gave rise to the facts which are the subject of the petition for rehearing, if they are, according to the petitioner's assertion, in conflict with a constitutional act, or with a statute if the petition concerns some other enactment.

(5) Apart from the petitioner, persons who were parties to the proceeding before the Court, the rehearing of which is proposed, shall also be parties to the proceeding on the petition for rehearing; those persons who were secondary parties in that proceeding shall also have that status in the proceeding on the petition for rehearing.

(6) Secs. 83 and 84 shall apply for the reimbursement and payment of attorney's fees in proceedings on a petition for rehearing.

## § 119a

- (1) The petition for rehearing shall be inadmissible if the consequences of the infringement of the human right or basic freedom no longer persist and they have been sufficiently redressed by the granting of just satisfaction pursuant to the international court's decision, or if redress was attained in some other manner.
- (2) The Court shall not reject the petition for rehearing as inadmissible on the grounds stated in para. 1 if the public interest in the reopening of the proceeding substantially outweighs the petitioner's personal interest.

## § 119b

- (1) The Court shall decide on the petition for rehearing without an oral hearing. Should the Court's judgment be in conflict with the international tribunal's decision, the Court shall quash that judgment, otherwise it shall reject the petition on the merits.
- (2) If the Court quashes its previous judgment on the basis of the petition for rehearing, it shall once again consider the original petition to institute proceedings in accordance with the relevant provisions of this Statute.
- (3) In its new judgment the Court shall proceed on the basis of the international tribunal's proposition of law.
- (4) If the Court's new judgment results in the quashing of decisions which preceded its original judgment, § 235i para. 3 of the Civil Procedure Code shall apply analogously to the manner in which the bodies competent to decide in the matter shall proceed.
- (5) If the Court decides in a ruling and by that ruling it concludes the proceeding, it shall apply analogously the provisions of paras. 1-4.

**NINTH DIVISION - Proceedings on Jurisdictional Disputes between State Bodies, between Bodies of a Self-Governing Region, and between a State Body and a Body of a Self-Governing Region**

## § 120

### Submission of Petitions

- (1) In a proceeding on a jurisdictional dispute between a state body and the body of a self-governing region under Article 87 para. 1, lit. k) of the Constitution, the Court shall decide the dispute between the state body and the body of the self-governing region over jurisdiction to issue a decision, to take measures, or other actions (hereinafter "decisions") in the matter referred to in the petition instituting the proceeding (hereinafter "jurisdictional dispute").

(2) A petition instituting a proceeding in a jurisdictional dispute may be submitted by:

a) a state body in a jurisdictional dispute between the state and a self-governing region or in a jurisdictional dispute between state bodies;

b) the representative body of a self-governing region in a jurisdictional dispute between that self-governing region and the state or in a jurisdictional dispute between self-governing regions.

## § 121

### Parties

State bodies and self-governing regions which are referred to in a petition instituting a proceeding, or which assert that they have jurisdiction to issue decisions in the matter referred to in the petition, or which disclaim such jurisdiction shall also be parties to the proceeding in a jurisdictional dispute.

## § 122

### Inadmissible Petitions

(1) A petition is inadmissible if, according to a special statute, some other authority has jurisdiction to resolve the jurisdictional dispute.

(2) The petition is also inadmissible if the bodies between which the jurisdictional dispute arose are both subordinate to the same superior body and it is competent to resolve jurisdictional disputes.

## § 123

### Dismissal of the Petition

If the petition is not rejected pursuant to § 120 para. 2, the petitioner may withdraw it only with the consent of the Court; in such a case the Court shall dismiss the petition.

### The Judgment and its Legal Consequences

## § 124

(1) In its judgment, the Court shall declare which body has jurisdiction to render a decision in the matter referred to in the petition instituting the proceeding.

(2) If the case involves a jurisdictional dispute between a state body and a self-governing region, the Court shall decide whether the matter falls within the jurisdiction of the state or of the self-governing region.

## § 125

(1) If a body which is a party to the proceeding in a jurisdictional dispute issued a decision in the matter referred to in the petition instituting the proceeding and if, according to the Court, another body has jurisdiction to issue such a decision, in its judgment the Court shall annul that decision.

(2) If a body which is a party to the proceeding in a jurisdictional dispute issued a decision in which it disclaimed jurisdiction and if, according to the findings of the Court, it has jurisdiction to issue a decision in the matter, in its judgment the Court shall annul that decision.

### TENTH DIVISION - Proceedings on the matter of the Referendum on the Czech Republic's Accession to the European Union

#### Proceedings on the Failure to Call a Referendum

## § 125a

#### Submission of Petitions

(1) Remedial actions from a decision of the President declining to call a repeated referendum on the Czech Republic's accession to the European Union, may be submitted by the government, jointly by at least two-fifths of the Deputies, or jointly by at least two-fifths of the Senators within 20 days of a decision by the President declining to call a referendum, or from the day when the 30 day period under Art. 4 of the Constitutional Act concerning the Referendum on the Czech Republic's Accession to the European Union expires without the President having either called a referendum or decided not to call a referendum.

(2) A petition submitted by a group of Deputies or a group of Senators pursuant to para 1 must be signed by the prescribed number of Deputies or Senators in their own hand.

(3) The Court shall inform the President without delay of any petition submitted to the Court pursuant to para 1.

(4) The Court shall hear a petition pursuant to para 1 out of the order in which it is received and without unnecessary delay.

## § 125b

#### Parties to the Proceeding

In addition to the petitioner, the President and the government shall also always be parties to the proceeding.

#### § 125c

##### The Judgment and its Legal Consequences

If the Court grants a petition submitted pursuant to § 125a, it shall declare in its judgment that the President is obliged to call a referendum within 10 days of the day the Court announces its decision so that the referendum can take place in a period beginning on the thirtieth day from the calling of the referendum and ending on the sixtieth day there from. Should the Court affirm the President's decision, it shall reject the petition on the merits.

##### Proceedings on the Lawfulness of the Manner in which a Referendum is Held

#### § 125d

##### Submission of Petitions

(1) Every citizen who is entitled to vote in the referendum may submit, within 10 days of the day on which voting in the referendum was completed, a petition requesting the issuance of a decision as to whether the manner in which a referendum on the Czech Republic's accession to the European Union was held is in conformity with the Constitutional Act concerning the Referendum on the Czech Republic's Accession to the European Union and with the statute issued in implementation thereof.

(2) The Court shall inform the President without delay of any petition submitted to the Court pursuant to para 1, as well as the dismissal thereof.

(3) The Court shall hear a petition pursuant to para 1 out of the order in which it is received and without unnecessary delay.

#### § 125e

##### Parties to the Proceeding

In addition to the petitioner, the body that is competent for the referendum is also a party to the proceeding.

#### § 125f

##### The Judgment and its Legal Consequences

(1) If, after having held a proceeding, the Court comes to the conclusion that the manner in which the referendum was held was not in conformity with the Constitutional Act concerning the Referendum on the Czech Republic's Accession to the European Union and with the statute issued in implementation thereof and if the ascertained non-conformity might have affected the outcome of the referendum, then the Constitutional Court shall pronounce in its judgment that

a) the manner in which the referendum was held was not in conformity with the mentioned legal enactments and indicate which provisions of the Constitutional Act concerning the Referendum on the Czech Republic's Accession to the European Union or which provisions of the statute issued in implementation thereof were infringed,

b) the results of the referendum shall not be announced,

c) the President shall call a new referendum.

(2) If, after having held a proceeding, the Court comes to the conclusion that the manner in which the referendum was held was in conformity with the Constitutional Act concerning the Referendum on the Czech Republic's Accession to the European Union and with the statute issued in implementation thereof, it shall decide in its judgment that the referendum was conducted in conformity with the Constitutional Act concerning the Referendum on the Czech Republic's Accession to the European Union and with the statute issued in implementation thereof, and reject the petition on the merits. It shall decide in the same way if, after having held a proceeding, it comes to the conclusion that the manner in which the referendum was held was not in conformity with the Constitutional Act concerning the Referendum on the Czech Republic's Accession to the European Union or with the statute issued in implementation thereof, but that the outcome of the referendum could not have been affected by the ascertained non-conformity.

### **THIRD PART - WAGE CONDITIONS FOR JUSTICES AND ASSISTANTS**

§§ 126 - 130

[repealed]

§ 131

The wage conditions for Assistants are governed by special statutes and other enactments. [4]

[4] Act No. 143/1992 Sb., on Salary and Remuneration for Standby in Budgetary and in certain other Organization and Institutions.

## **F O U R T H P A R T - DISCIPLINARY INFRACTIONS AND DISCIPLINARY PROCEEDINGS**

### Disciplinary Infractions

#### § 132

Justices are held accountable for disciplinary infractions.

#### § 133

(1) A disciplinary infraction is any conduct by a Justice which lowers the esteem and dignity of his office or tends to undermine confidence in the independent and impartial decision-making of the Court, as well as any other culpable violation by a Justice of his duties.

(2) Any conduct which satisfies the elements of an administrative offense under special statutes and other enactments is also a disciplinary infraction.

### Disciplinary Proceedings

#### § 134

(1) The Chairperson may by ruling institute disciplinary proceedings. The ruling must be reasoned and shall be delivered to the Justice against whom the disciplinary proceeding has been instituted.

(2) The Plenum, on the joint proposal of at least three Justices, may adopt a ruling instituting disciplinary proceedings against the Chairperson.

(3) Disciplinary proceedings may be instituted within one year of the occurrence of the conduct which constitutes the grounds for instituting the proceedings.

#### § 135

While a disciplinary proceeding for a disciplinary infraction is pending, the Justice in question may not take any action connected with the performance of her judicial duties. If the Justice is a Panel Chairperson or a Panel member, the Chairperson shall designate which of the other Justices shall act as a substitute member of that Panel. If the Justice is the Chairperson, one of the Vice-Chairpersons shall carry out her duties.

#### § 136

The provisions of § 135 apply analogously to any period during which a Justice is being criminally prosecuted.

§ 137

(1) The Chairperson shall present his ruling instituting a disciplinary proceeding to the Plenum.

(2) The Justice against whom a disciplinary proceeding has been instituted must be given the opportunity to express his views on the grounds for the ruling instituting the disciplinary proceeding and to take part in all of the Plenum's dealings in the matter, with the exception of conferences and votes.

§ 138

The relevant provisions of the Code of Criminal Procedure shall be applied, *mutatis mutandis*, to the taking of evidence in disciplinary proceedings.

§ 139

(1) The Plenum shall discontinue a disciplinary proceeding if it finds it to be without merit. Another disciplinary proceeding may not be instituted in the same matter.

(2) If the disciplinary proceeding is not discontinued, the Plenum shall select, from among its members, a five member disciplinary panel, which shall act in the matter and decide it.

§ 140

(1) At its first meeting, the disciplinary panel shall select, from among its members, a Chairperson to direct the business of its meetings. The disciplinary panel is competent to take actions and adopt decisions when all of its members are present; it adopts decisions by a majority vote. The provisions of § 20 shall apply analogously.

(2) In its decision-making, the disciplinary panel is bound by the grounds for the disciplinary proceeding stated in the ruling instituting the proceeding.

(3) A Justice, against whom a disciplinary proceeding has been brought, has the right to take part in the dealings of the disciplinary panel, with the exception of conferences and votes, to express her views on the grounds for the disciplinary proceeding and on the evidence taken, to question witnesses and experts, and to submit proposals for taking supplemental evidence.

§ 141

The disciplinary panel shall decide either to reprimand the Justice for the conduct referred to in the ruling instituting the disciplinary proceeding or to dismiss the disciplinary proceeding if a disciplinary infraction is not proven.

#### § 142

(1) The Chairperson or the Justices who submitted the proposal to institute the disciplinary proceeding pursuant to § 134 para. 2 may, within 15 days of its delivery, submit objections to the disciplinary panel's ruling dismissing the proceeding. The Plenum shall decide about the objections either by confirming the disciplinary panel's ruling or by annulling it and returning the matter to the panel for further action; the Plenum's orders to supplement the proceeding are binding on the disciplinary panel.

(2) If no objections to the disciplinary panel's ruling, as referred to in paragraph 1, were submitted or if the Plenum confirmed that ruling, the Justice shall be treated as if no disciplinary proceeding had been instituted against her. Another disciplinary proceeding may not be instituted in the same matter.

(3) Within 15 days of the day a disciplinary panel's ruling reprimanding a Justice for her conduct is delivered, that Justice may submit objections to it. The Plenum shall decide on the objections either by confirming the disciplinary panel's ruling, annulling it, or returning the matter to the panel for further action; the Plenum's orders to supplement the proceeding are binding on the disciplinary panel.

#### Other Decision-Making

#### § 143

This part shall also apply, *mutatis mutandis*, in deciding whether:

- a) a Justice holds an office or engages in some other profit-making activity which is incompatible with holding the office of a Justice;
- b) a Justice is a member of a political party or political movement;
- c) a Justice has not taken part in the work of the Court for a period exceeding one year.

#### § 144

(1) If it is proven in a disciplinary proceeding that a Justice has engaged in conduct such that his continuance in office would be incompatible with the mission of the Court and with the stature of its Justices, and if no objections were submitted to the disciplinary panel's ruling reprimanding the Justice for his conduct or if the Plenum confirmed that ruling, the Plenum shall decide whether to terminate the

Justice's office. The Chairperson of the disciplinary panel may submit a proposal for such a ruling.

(2) The consent of at least nine Justices is required to adopt a ruling pursuant to paragraph 1. The Plenum may take actions on and adopt rulings concerning the proposal if at least 12 Justices are present.

## **F I F T H P A R T - TRANSITIONAL AND CONCLUDING PROVISIONS**

### § 145

(1) If an action of a public authority: [5]

a) of the Czech Republic, or

b) of the Czech and Slovak Federal Republic within an area of jurisdiction which, as of 1 January 1993 pursuant to constitutional acts or statutes, devolved upon governmental bodies of the Czech Republic [6]

occurred prior to 1 January 1993 and if the period, prescribed in § 55 para. 3 of Act No. 491/1991 Sb., for submitting a constitutional complaint to the Constitutional Court of the Czech and Slovak Federal Republic commenced after 2 November 1992, a constitutional complaint contesting that action may be submitted to the Court within 60 days of the day this Statute came into effect.

(2) If the Court determines that such constitutional complaint does not contest an action of one of the public authorities referred to in paragraph 1, it shall dismiss the complaint.

[5] Article 6 of Constitutional Act No. 91/1991 Sb., concerning the Constitutional Court of the Czech and Slovak Federal Republic.

[6] In particular, Article 3 of Constitutional Act of the Czech National Council No. 4/1993 Sb., concerning Measures connected with the Dissolution of the Czech and Slovak Federal Republic.

### § 146

(1) A constitutional complaint or a petition under § 72 para. 1 may be submitted, under the conditions prescribed in this Statute, against actions of a public authority which occurred between 1 January 1993 and the day this Statute came into effect.

(2) The provisions of § 72 para. 2 and § 73 para. 2 shall apply analogously to the period for submitting constitutional complaints or petitions under paragraph 1, provided that the period for their submission, which otherwise would have

commenced prior to the day this Statute came into effect, shall not commence until that day.

#### § 147

The Court shall act upon and decide constitutional complaints which, pursuant to constitutional acts, statutes, and other enactments on the Constitutional Court of the Czech and Slovak Federal Republic, were submitted to that court prior to 1 January 1993 and upon which that constitutional court did not make a decision, so long as they concern actions of a public authority referred to in § 145 para. 1.

#### § 148

(1) The Court shall act upon and decide constitutional complaints under §§ 145 to 147 in accordance with this Statute.

(2) In ascertaining whether a complainant's constitutionally guaranteed fundamental rights and basic freedoms [7] were infringed, the Court shall proceed on the basis of the Charter of Fundamental Rights and Basic Freedoms [8] and of international treaties on human rights and fundamental freedoms by which the Czech Republic is bound.

7) Article 6 of Constitutional Act No. 91/1991 Sb. Article 87 para. 1, lit. d) of the Constitution of the Czech Republic.

8) Resolution of the Presidium of the Czech National Council No. 2/1993 Sb., on the declaration of the CHARTER OF FUNDAMENTAL RIGHTS AND BASIC FREEDOMS as a Part of the Constitutional Order of the Czech Republic.

#### § 149

The Court shall take up its work as soon as the twelfth Justice has taken the oath of office. The Chairperson shall summon the Justices to a meeting within 15 days of the day the twelfth Justice takes his oath. Until the time the Chairperson and Vice-Chairpersons are appointed, the duties of the Chairperson and the Vice-Chairpersons shall be performed by the Justice who is senior by age.

#### § 150

This statute shall come into effect on 1 July 1993.