

ACT of 16 June 1993, No. 182/1993 Sb.  
On the Constitutional Court

(as amended by Acts No. 331/1993 Sb. 236/1995 Sb. 77/1998 Sb. 18/2000 Sb.  
132/2000 Sb. 48/2002 Sb.)  
The Parliament has enacted the following statute of the Czech Republic:

FIRST PART  
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 she 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 willful 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) At least one Assistant shall be named for each Justice.
- (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 citizen may be named an Assistant, provided he has a character beyond reproach and has completed a university legal education.
- (2) An Assistant may resign from her position; her duties shall terminate on the day after her letter of resignation is delivered to the Chairperson.
- (3) An Assistant's position shall also terminate:
  - a) upon the termination of the office of the Justice whose Assistant he was named;
  - b) on the day a decision, by which the Assistant is convicted of a criminal offense, becomes final;
  - c) upon his recall.
- (4) An Assistant is obliged to maintain secrecy concerning matters about which she learned in connection with the performance of her duties. This obligation continues even after she has left her position. The Chairperson may relieve her of this obligation.

§ 10

The Status of Justices and Assistants in Employment Relations  
Unless this Statute provides otherwise, the provisions of the Labor 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 make decisions concerning:
  - 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. c) 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 67 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) 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);
  - g) 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);
  - h) additional matters under Article 87 para. 1 of the Constitution, if it reserves them to itself;
  - i) the regulation of its internal relations;
  - j) 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 is 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 favor of it. If the matter concerns a decision under Article 87 para. 1, lit. e), 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 favor of it.

§ 14

A Justice who disagrees with the decision of the Plenum in matters referred to in § 11 para. 2, lit. a) - h), 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.

Panelis

§ 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. f)].

(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. f)], 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.

§ 26

The Seat of the Court

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

SECOND PART

Proceedings before the Court

*Maklamanh Konstitusi  
Pusat Studi Hukum Taw Negera FKUI*

CHAPTER ONE  
General Provisions

§ 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, or by a commercial lawyer or notary to the extent provided for in special statutes and enactments. [2] 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, or by a commercial lawyer or notary to the extent provided for in special statutes and enactments. [2]
- (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 sec. 29 is not 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.

(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, or by a commercial lawyer or notary to the extent provided for by special statutes and enactments, is not affected thereby. [2]

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

[2] § 2 of Czech National Council Act No. 209/1990 Sb., on Commercial Lawyers and Legal Advice Provided by Them, § 3 of Czech National Council Act No. 358/1992 Sb., on Notaries and their Activities (Notarial Rules).

[2a] Act No. 201/2002 Sb., on the the State Office for 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 himself represented by some other person.

(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 earlier submitted petition, 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 therefor. 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

Justices may assign to their Assistants:

- a) the task of refusing submissions which, as ascertained from the contents, are manifestly not a petition including

- a) proceeding and of notifying the person who made the submission accordingly;
- 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.

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 evidences and the examination of witnesses, possibly even by means of another court, if such evidences 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 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 therefor;
  - 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 § 71a 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

(1) In matters dealt with by the Court under Article 87 para. 1 or 2 of the Constitution, if the petition was not rejected by preliminary ruling without an oral hearing and without the parties being present, an oral hearing shall be held.

(2) Unless the Statute provides otherwise, with the consent of the parties, the Court may dispense with an oral hearing if further clarification of the matter cannot be expected from such a hearing.

##### § 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. The results of such evidence taking must always be communicated during 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 inquiries, 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 decides, 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 Rapporteur'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, Easivé 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.
- (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, 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) and c) 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 installments 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.

(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, which duty he may assign to one of the Vice-Chairpersons.

(6) Until a judgment, or a ruling chosen for publication in the Collection of Decisions, is made public, the final version of it designated for the Collection of Decisions shall be available at the Court 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 Kč 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.<sup>[3]</sup>

(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 So., 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 the Court shall apply the relevant provisions of the Code of Civil Procedure, as well as other enactments issued for the implementation thereof.

CHAPTER TWO  
Provisions Concerning Specific Proceedings before the Court  
FIRST DIVISION  
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) anyone who submits a constitutional complaint under the conditions stated in § 74 of this Statute.
- (2) A petition, under Article 87 para. 1, lit. b) of the Constitution, proposing the annulment of some other enactment, 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;
  - e) a representative body of a higher self-governing region;
  - f) the Public Protector of Rights ["Ombudsman"];
  - g) the Interior Minister, in cases concerning petitions proposing the annulment of a legal enactment of a region, of the capital city of Prague, or of an order of a county office.
- (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 therefor 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.

§ 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, last 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 if 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) Without delay the Rapporteur shall also send the petition which instituted the proceeding pursuant to Article 87 para. 1, lit. b) of the Constitution to the Public Protector of Rights, provided he is not the petitioner. Within 10 days of the petitioner'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, 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 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 pursuant to 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 for its consent to ratification, until the moment when it 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) 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) 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.

THIRD DIVISION  
Proceedings on a Constitutional Complaint  
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 by a constitutional act (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" or "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) A constitutional complaint may be submitted within a period of 60 days. If the law affords a remedial procedure for the protection of rights (§ 75 para. 1), this period starts to run on the day when the decision is delivered in the final available procedure, or, if there is no such procedure, on the day when the events which are the subject of the constitutional complaint took place.

(3) Unless otherwise stated in this Statute, the general provisions of this Statute concerning petitions shall also apply to constitutional complaints, and the general provisions of this Statute concerning petitioners to persons who submit a constitutional complaint (hereinafter "complainants").

(4) A copy of the decision in the final remedy afforded by law (§ 75 para. 1) for the protection of rights must be attached to the complaint.

§ 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 remedial procedure afforded by law for the protection of rights (§ 75 para. 1) acquires legal force.

(3) For a proceeding on a petition under paragraph 1, the procedure set out in this division shall be followed.

§ 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 remedial procedures afforded him by law for the protection of his rights; a petition for permission to reopen a proceeding is not considered to be such a procedure.

(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 enactmentment 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

§ 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 remedial procedure afforded by law for the protection of rights (§ 75 para. 1) acquires legal force.

(3) For a proceeding on a petition under paragraph 1, the procedure set out in this division shall be followed.

§ 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, if 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 remedial procedures afforded him by law for the protection of his rights; a petition for permission to reopen a proceeding is not considered to be such a procedure.

(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 enactment 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



**§ 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, 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 canceled 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 amend 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.
- (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

§ 84

Payment of 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, if 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 (a, b, c) or (d) of the Constitution, petitioners 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 (a, b, c) or (d) 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 Change 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 Changes

(1) Pursuant to Article 87 para. 1, lit. g) of the Constitution and on the basis of a charge by the Senate, the Court shall decide whether the President committed high treason. Such a proceeding is instituted by the delivery of the charge to the Court.

(2) A constitutional change 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 change 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 is not 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  
Defense Counsel

If the President is defending a constitutional charge, he has the right to choose for himself one or more defense 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 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 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 defense counsel the opportunity to express their views thereon; the