

LAW OF THE CONSTITUTIONAL COURT

Law n.º 28/82, of 15 November
(*modified by Law n.º. 143/85, of 26 November, Law n.º. 85/89, of 7 September, Law*
n.º. 88/95, of 1 September and by Law n.º. 13-A/98, of 26 February)
ORGANIZATION, FUNCTIONING AND PROCEDURE
IN THE
CONSTITUTIONAL COURT

According to the terms of article 244 of Constitutional Law n.º 1/82, dated 30
September, the Assembly of the Republic decrees the following:

TITLE I

GENERAL PROVISIONS

Article 1

(Jurisdiction and head office)

The Constitutional Court has authority over all Portuguese jurisdiction and the head office of the court is in Lisbon.

Article 2

(Decisions)

Decisions taken by the Constitutional Court are binding to all public and private entities and prevail over all other courts and authorities.

Article 3

(Publication of decisions)

1. The decisions taken by the Constitutional Court, with the objective of:

- a) Declaring the unconstitutionality or illegality of regulations;
 - b) Ascertaining the existence of unconstitutionality by omission;
 - c) Ascertaining the death, permanent physical incapacity or the removal of the President of the Republic from office;
 - d) Ascertaining the temporary impediment of the President of the Republic from carrying out his duties or the removal of this impediment;
 - e) Ascertaining the death or the incapacity of any nominee to the position of President of the Republic to exercise presidential duties;
 - f) Declaring that an organisation has adopted a fascist ideology and decreeing that it be abolished;
 - g) Ascertaining the constitutionality and the legality of proposals for referendum at national, regional and local level;
 - h) Assessing the accuracy and the legality of the accounts of political parties;
- are published in Series I-A of the *Diário da República*.

2. All other decisions taken by the Constitutional Court are published in Series II of the *Diário da República*, unless they are purely interim decisions or simply a repetition of previous decisions.

Article 4

(Cooperation from other courts and authorities)

In exercising its duties the Constitutional Court has the right to request the cooperation of other courts and authorities.

Article 5

(Administrative and financial system)

The Constitutional Court has administrative autonomy and has its own budget, included in the "general spending" chapter of the National State Budget.

TITLE II

Competence, organisation and functioning

CHAPTER I

Competence

Article 6

(Assessment of unconstitutionality and illegality)

It is the responsibility of the Constitutional Court to assess unconstitutionality and illegality according to the terms of articles 277 and those following in the Constitution and of those in this law.

Article 7

(Competence regarding the President of the Republic)

It is the responsibility of the Constitutional Court:

- a) To ascertain the death or declare the permanent physical incapacity of the President of the Republic, as well as to ascertain any temporary impediment to the President carrying out his duties;
- b) To ascertain that the President of the Republic be removed from office when the cases envisaged in n.º 3 of article 129 and n.º 3 of article 130 of the Constitution occur.

Article 7-A

(Competence regarding disputes over loss of seat of members)

The Constitutional Court is responsible for passing judgement on appeals against the loss of the seat of a member of the Assembly of the Republic or of a member of one of the Regional Legislative Assemblies.

Article 8

(Competence regarding electoral procedures)

The Constitutional Court is responsible for:

- a) Receiving and admitting nominations for President of the Republic;
- b) Ascertaining the death and declaring the incapacity of any nominee for the President of the Republic to exercise presidential duties, for the purposes of the ruling in n.º 3 of article 124 of the Constitution;
- c) Passing judgement on appeals against decisions on claims and protests made regarding the partial, district and general counting of votes in the elections for President of the Republic, according to the terms of article 114 and 115 of Act n.º 319-A/76, dated 3 May;
- d) Passing judgement on appeals against judicial disputes over the submission of nominations and judicial cases regarding the election of the President of the Republic, the Assembly of the Republic, regional assemblies and local authorities;
- e) Receiving and admitting nominations for the election of members to the European Parliament and passing judgement on the ensuing cases as well as trying judicial cases regarding the same election;
- f) Passing judgement on appeals against judicial definitive administrative acts pursued by the National Elections Committee or by other administrative electoral bodies;
- g) Passing judgement on appeals regarding elections held in the Assembly of the Republic and in Regional Legislative Assemblies.

Article 9

(Competence regarding political parties, coalitions and fronts)

The Constitutional Court is responsible for:

- a) Accepting the enrolment of political parties on the Court's own register;
- b) Assessing the legality of names, acronyms and political party symbols and of coalition and party fronts, although constituted only for electoral purposes, as well as assessing their identity or similarity with those of other parties, coalitions or fronts;
- c) Registration of any alteration regarding political parties, coalitions or party fronts, as demanded by law;
- d) Passing judgement on actions to contest elections of and decisions taken by political party organs and which, according to the law, can be appealed against;
- e) Assessing the regularity and the legality of the accounts of political parties, according to the law, and applying any corresponding sanctions;

f) Ordering the abolition of parties and coalitions of parties according to the terms of the law.

Article 10

(Competence regarding organisations adopting a fascist ideology)

The Constitutional Court is responsible for declaring, according to the terms and for the purposes of Law n.º 64/78, dated 6 October, that an organisation has adopted a fascist ideology and for decreeing its respective abolition.

Article 11

(Competence regarding national, regional and local referenda)

The Constitutional Court is responsible for the prior verification of the constitutionality and legality of proposals for national, regional and local referenda, envisaged in n.º 1 of article 115, n.º 2 of article 232 and in articles 240 and 256 of the Constitution, including consideration of requirements relating to the respective voting population, and for whatever else it has competence for according to the law regarding the implementation of such referenda.

Article 11-A

(Competence regarding declarations by holders of political posts)

The Constitutional Court is responsible for receiving statements of assets and earnings as well as declarations of incompatibility and impediment from holders of political posts, and for taking decisions on these matters as provided for in the respective laws.

CHAPTER II

Organisation

SECTION I

Composition and constitution of the Court

Article 12

(Composition)

1. The Constitutional Court is composed of 13 judges, 10 appointed by the Assembly of the Republic and 3 co-opted by these.

2. Six of the judges appointed by the Assembly of the Republic, or co-opted, must be selected from among the judges of the remaining courts and the others from among the jurists.

Article 13

(Requisites of eligibility)

1. Judges may be elected to the Constitutional Court who are Portuguese citizens fully enjoying their civic and political rights, who hold a doctorate, a masters degree or a first degree in Law, or are judges from other courts.

2. For the purposes of the previous number only doctorates, masters or graduate diplomas from Portuguese universities, or those officially recognised in Portugal, are accepted.

Article 14

(Nominations)

1. Nominations, duly accompanied by proof of eligibility of nominees and the respective statements of acceptance of nomination, are submitted as a complete list by a minimum of 25 and maximum of 50 members to the Speaker of the Assembly of the Republic, up to 5 days prior to the meeting scheduled for the election.

2. The lists submitted for election should contain nominees equal to the number of vacancies to be filled.

3. No member may underwrite more than one list of nominees.

4. It is the responsibility of the Speaker of the Assembly of the Republic to check the requisites of eligibility of nominees and the other nomination admission requirements, and should there be any doubt or irregularity notify the first underwriter within a period of two days of the need to clarify doubts or make corrections.

5. An appeal may be made against the Speaker's decision to the Plenary of the Assembly of the Republic.

Article 15

(List of nominees)

Up to 2 days prior to the meeting scheduled for the election, the Speaker of the Assembly of the Republic makes a list of nominees which is published in the *Diário da Assembleia da República*.

Article 16

(Voting)

1. The voting papers contain all the lists of nominees submitted, with each list containing the names of all nominees in alphabetical order, identifying those who are judges in other courts.
2. Opposite each list of nominees is a blank square where the voter marks his choice.
3. Each member marks the square opposite the list of his choice with a cross and may not vote for more than one list, at the risk of having the voting paper annulled.
4. Those nominees are elected who obtain two-thirds of the vote cast by members present, providing that these represent an absolute majority of members in office.
5. The list of those elected is published in Series I-A of the *Diário da República* in the form of an Assembly of the Republic resolution on the day following the election.

Article 17

(Meeting for co-opting)

1. Should there be vacancies for co-opted judges, these are filled by judges elected by the Assembly of the Republic at a meeting held within a period of 10 days.
2. It is for the eldest judge to appoint the day, time and place of the meeting and to conduct the proceedings, and it is for the youngest judge to act as secretary.
3. Should there be vacancies for judges elected by the Assembly of the Republic and co-opted judges, the vacancies for elected judges are filled first.

Article 18

(List of nominees)

1. After prior discussion, each judge elected by the Assembly of the Republic indicates on a paper then placed in the ballot box, the name of a judge from the remaining courts or of a jurist, and when voting has ended the chairman of the meeting is responsible for compiling the list of nominees.
2. The list of nominees should contain the same number of names as the vacancies to be filled, or more, including those of the judges from the remaining courts sufficient in number to at least fill the share of places reserved for them, and should the numbers not be sufficient the procedure should be repeated as many times as is necessary for this purpose.

Article 19

(Voting and appointment)

1. A voting paper is given to each co-opting judge on which the names of the nominees are given in alphabetical order.
2. Opposite each name is a blank square in which the choice of the co-opting judge will be marked.
3. Each co-opting judge marks a cross in the blank squares opposite the names of the nominees for whom he votes, and he may not vote for more nominees than the number of vacancies to be filled, nor for a number of nominees who are not judges from the remaining courts thus affecting the share of places reserved for them, at the risk of annulling the respective voting paper.
4. The appointed nominee is the one obtaining a minimum of 7 votes in the same ballot and who accepts the appointment.
5. If after 5 ballots the vacancies have not all been filled a new voting list is drawn up to fill the remaining vacancies, observing the provision in the previous article and in numbers 1 to 4 of this article.
6. When voting has been completed, the chairman of the meeting shall notify the judges who have obtained the number of votes envisaged in number 4 and ask them to state in writing within a period of 5 days, whether they accept the appointment.

7. Should they refuse, the procedure indicated in the previous numbers and articles is repeated until the vacancy is filled.
8. Each nominee shall only be considered finally co-opted after all the vacancies have been filled.
9. The list of those co-opted is published in Series I-A of the *Diário da República* as a statement signed by the judge who conducted the meeting, on the day following the day they were co-opted.

Article 20

(Taking office and swearing in)

1. The judges of the Constitutional Court take office before the President of the Republic within a period of 10 days counting from the date on which the respective election or co-opting is published.
2. During the act of taking office they swear the following oath: "I swear by my honour to uphold the Constitution of the Portuguese Republic and to faithfully fulfil the duties with which I have been invested."

Article 21

(Period of office)

1. The judges of the Constitutional Court are appointed for a period of 9 years, counting from the date on which they take office, and their duties cease when the judge appointed to occupy the respective vacancy takes office.
2. The term of office of judges of the Constitutional Court is not renewable.
3. Judges of the remaining courts appointed to the Constitutional Court who reach the age of 70 while in office continue in office until their term ends.

SECTION II

Status of Judges

Article 22

(Independence and irremovability)

Judges of the Constitutional Court are independent and irremovable, and their duties may not cease before the term for which they were appointed has elapsed except in the cases envisaged in the following article.

Article 23

(Cessation of duties)

1. The duties of the judges of the Constitutional Court cease prior to the end of their term of office when any of the following situations is verified,
 - a) Death or permanent physical incapacity;
 - b) Renunciation;
 - c) The acceptance of a position or practice of an act which is incompatible with the fulfilment of their duties as defined by the law;
 - d) Dismissal or compulsory retirement as a result of a disciplinary or criminal procedure.
2. Renunciation is declared in writing to the president of the Court and does not depend on acceptance.
3. The Court is responsible for verifying the occurrence of any of the situations envisaged in sub-paragraphs a), c) and d) of n.º 1, and permanent physical incapacity should previously be proved by two medical specialists also appointed by the Court.
4. The cessation of duties due to the ruling in n.º 1 is the object of a statement that the president of the Court will have published in Series I-A of the *Diário da República*.

Article 23-A

(Social security and retirement)

1. The judges of the Constitutional Court benefit from the most advantageous welfare system applied in the civil service.

2. Should the judges of the Constitutional Court choose the welfare system of their profession, the Constitutional Court must comply with the responsibilities of the previous employer.
3. In the 180 days following cessation of respective duties, the judges of the Constitutional Court may claim voluntary retirement from that position without the need for submitting a medical opinion, providing they fulfil one of the following conditions:
 - a) Have completed 12 years of service, irrespective of age;
 - b) Be 40 years of age and have the 10 years of service required for retirement.
4. Except in the case of cessation of duties being due to permanent physical incapacity, verified in accordance with the ruling in n.º 3 of article 23, voluntary retirement may only be claimed, according to the terms of the previous number, when the subscriber has fulfilled the duties of judge of the Constitutional Court up to the end of his respective term of office or during at least ten years, consecutive or intermittent.
5. No longer subscribing to the State pension fund as a result of the cessation of duties as a judge of the Constitutional Court does not remove the right to claim voluntary retirement according to the terms of n.º 3.
6. The limit referred to for judges of the Constitutional Court in n.º 1 of article 27 of Law n.º 4/85, of 9 April, in its amendment by article 1 of Law n.º 26/95, of 18 August, is that of their respective salary.
7. The ruling in articles 67 and 68 of the Statutes of Judicial Magistrates is applied to the judges of the Constitutional Court who retire due to incapacity or according to the terms of n.º 3.
8. The retirement pension for judges of the Constitutional Court is always calculated according to the corresponding provisions of the Statutes of Judicial Magistrates.

Article 24

(Responsibility)

The judges of the Constitutional Court may not be held responsible for their decisions, except according to the terms and restrictions reserved for the judges of the judicial courts.

Article 25

(Disciplinary system)

1. It is the exclusive responsibility of the Constitutional Court to exercise disciplinary authority over its judges, even when the disciplinary action involves acts practised in the exercise of their duties, and it is for the Court to open the disciplinary procedure, appoint the respective reporter judge from among its members, deliberate on the eventual preventive suspension and pass final judgement.
2. An appeal may be made against decisions taken on disciplinary matters (by the Constitutional Court) to the Court itself.
3. Apart from the ruling in the previous numbers the disciplinary system established by law for judicial magistrates applies to the judges of the Constitutional Court.

Article 26

(Legal and criminal liability)

1. Legislation regarding the legal and criminal liability of the judges of the Supreme Court of Justice is applicable to judges of the Constitutional Court, with the necessary adaptations, as well as legislation regarding respective preventive detention.
2. Should criminal proceedings be moved against a judge of the Constitutional Court and should he be accused of a crime committed during the performance of his duties, continuation of the process depends on decision by the Assembly of the Republic.
3. When, in the situation provided for in the preceding number, proceedings are authorised to continue, the Court shall suspend the judge from his duties.
4. If an accusation is made against a judge of the Constitutional Court for a crime extraneous to the performance of his duties, the Court shall decide if the judge should be suspended from his duties or not in order to allow the case to proceed. A decision

to suspend is compulsory when an intentionally committed crime is involved which carries a prison sentence with a maximum limit of more than three years.

Article 27

(Incompatibility)

1. Duties in organs with supreme State authority in the autonomous regions or in local authority, as well as holding any other office or duty of a public or private nature, are incompatible with fulfilment of the duties of judge of the Constitutional Court.
2. Non-remunerated teaching duties or scientific research of a legal nature are exceptions to the ruling in the final part of the previous number.

Article 28

(Prohibition of political activities)

1. Judges of the Constitutional Court may not hold any duties in party organs, political associations or foundations connected to them, nor be involved in any political or party activities of a public nature.
2. During their period in office any status of affiliation in parties or political associations is suspended.

Article 29

(Impediment or objection)

1. The system of impediment and objection as applied to judges of the judicial courts also applies to the judges of the Constitutional Courts.
2. Affiliation in a party or political association is not grounds for objection.
3. The court is responsible for verifying impediment or assessing objection.

Article 30

(Rights, categories, salaries and benefits)

The judges of the Constitutional Court enjoy the same honours, rights, categories, form of address, salaries and benefits as the judges of the Supreme Court of Justice.

Article 30-A

(Professional dress)

In exercising their duties in the Court and, when they think fit, on solemn occasions at which they should be present, the judges of the Constitutional Court wear the tunic and collar bearing the insignias of the Court, according to the style defined by the latter. They may also wear a cape over the tunic.

Article 31

(Additional allowances)

1. The president of the Constitutional Court has the right to a subsidy of 20% of his salary for expenses incurred in his duties, and the use of an official car.
2. Should the president not normally reside in any of the districts mentioned in n.º 1 of the following article, he shall also have the right to the subsidy allocated to ministers in similar circumstances.
3. The vice-president of the Constitutional Court has the rights referred to in the preceding numbers with the subsidy for expenses incurred in his duties being 15%.

Article 32

(Expenses)

1. Judges residing outside the districts of Lisbon, Oeiras, Cascais, Loures, Sintra, Vila Franca de Xira, Almada, Seixal, Barreiro and Amadora have the right to the expenses established for members of the Government allocated for each day on which they are present when the court is in session, and a further two days a week.
2. Judges residing in the districts indicated in the previous number have the right, in the same terms, to a third of the expenses mentioned therein.
3. Judges not residing in one of the districts mentioned in n.º 1 and who make the return trip in their own car between Lisbon and their residence have the right to reimbursement for the corresponding expenses once a week for reasons of court functioning, according to the system applicable for civil servants.
4. Judges residing in one of the districts mentioned in n.º 1, with the exception of Lisbon, when they travel in their own car between their residence and the court, have

the right to reimbursement for the corresponding expenses according to the same system used for civil servants, based on the number of kilometers actually travelled.

Article 33

(Passport)

The Judges of the Constitutional Court have the right to a diplomatic passport.

Article 34

(Distribution of official publications)

1. The Judges of the Constitutional Court have the right to freely receive Series I and II of the *Diário da República*, the *Diário da Assembleia da República*, the official journals of the autonomous regions and the *Boletim Oficial de Macau*, as well as the *Boletim do Ministério da Justiça* and the *Boletim do Trabalho e Emprego*, and they may also request, through the President, the official publications they consider necessary for exercising their duties.

2. The Judges of the Constitutional Court have free access to the libraries of the Ministry of Justice, the high courts and the State Attorney's Office, as well as the right to consult the same services for computerised information on doctrine and case law..

Article 35

(Employment stability)

1. The Judges of the Constitutional Court may not be prejudiced in the stability of their employment, in their career and the social security system from which they benefit because of the need to exercise their duty.

2. Judges whose duties cease in the Constitutional Court automatically return to those duties for which they were responsible on the date of taking office, or to those to which they have been transferred or appointed, through promotion, during the period they were carrying out their duties at the Court. These respective original positions may only be occupied on a provisional basis in their absence.

3. While exercising their duties, judges do not lose seniority in their employment nor may they be prejudiced in receiving any promotion to which they may have acquired the right in the meantime.

4. Should the judges, on the date on which they take office, be invested in temporary civil service, due to law, act or contract or because commissioned into service, exercising the duties of the Constitutional Court suspends the respective period.

SECTION III

Internal Organisation

Article 36

(Internal competence)

The Constitutional Court is also responsible for:

- a) Electing the president and vice-president;
- b) Drawing up the rules of procedure required for the smooth running of the court;
- c) Approving the Court's draft annual budget;
- d) At the beginning of each judicial year, scheduling the days and hours at which ordinary sessions will be held;
- e) Carrying out the other competencies attributed to the Court by law.

Article 37

(Election of the president and vice-president)

1. The Judges of the Constitutional Court are responsible for electing from among their own body the president and the vice-president of the Constitutional Court who shall exercise duties for a period equal to half the term of office of a judge of the Constitutional Court and who may be re-elected.

2. Election of the president precedes election of the vice-president when both positions are vacant.

Article 38

(Election procedure and taking office)

1. The president and the vice-president are elected in a secret ballot, without prior discussion or debate, in a session at which the eldest judge presides and the youngest acts as secretary should the president or the vice-president be absent.
2. Each judge marks the name chosen by him on the voting paper which is placed in the ballot box.
3. The president elected is the judge who, in the same ballot, obtains a minimum of 9 votes; if, after 4 ballots, no judge obtains this number of votes, only the two names winning the most votes in the 4th ballot are admitted in later ballots; if, at the end of 4 ballots neither of the 2 obtain that number of votes, the judge elected is the one who is the first to obtain 8 votes in the same ballot.
4. Voting is done without interrupting the session.
5. The judge who gets a minimum of 8 votes after the necessary ballots, carried out according to the terms of the previous number, is elected vice-president.
6. Election of president and vice-president of the Constitutional Court is published in Series I-A of the *Diário da República*, in a statement signed by the judge who conducted the meeting.
7. Once elected, the president and the vice-president of the Constitutional Court take office before a plenary of the judges of the Court.

Article 39

(Competence of the president and vice-president)

The president of the Constitutional Court is responsible for:

- a) Representing the Court and ensuring its relations with the other sovereign bodies and other public bodies and authorities;
 - b) Receiving the applications and statements of withdrawal from nominees for President of the Republic;
 - c) Chairing the assembly for the overall final decision on election of the President of the Republic and members of the European Parliament;
 - d) Chairing court sessions and conducting proceedings;
 - e) Checking the result of voting;
 - f) Convening extraordinary sessions;
 - g) Chairing the distribution of court files, signing court papers and authorising certificates to be issued;
 - h) Organising and giving notification of the schedule for appeals and other cases prepared for judgement in each session, giving priority to those referred to in n.ºs 3 and 5 of article 43 and thus to those in which personal rights, freedoms and guaranties are at stake;
 - i) Organising on an annual basis the shift schedule, after having heard the judges' opinion, to ensure cases are judged during the judges' holiday periods;
 - j) Superintending the management and administration of the court as well as secretarial work and support services;
 - l) Swearing in Court employees and exercising disciplinary authority;
 - m) Exercising other competencies attributed by law or which the Court delegates to him.
2. The vice-president is responsible for substituting the president when he is absent or prevented from being present, assisting him in carrying out his duties, especially by presiding at one of the sections to which he might not belong, and performing those acts relating to the exercise of the competencies delegated to him by the president.
3. When the vice-president chairs sessions, cases in which he is the reporter judge may not be heard.

CHAPTER III

Functioning

SECTION I

Functioning of the Court

Article 40

(Sessions)

1. The Constitutional Court meets in plenary sessions and by sections.
2. The Constitutional Court meets ordinarily with the regularity defined in the Court's rules of procedure, and extraordinarily whenever the president convenes it, at his own initiative, or when requested to do so by a majority of judges in office.

Article 41

(Sections)

1. There shall be three non-specialised sections, each one comprising the president or vice-president of the Court and a further four judges.
2. The distribution of judges, including the vice-president, to sections and decision as to which section shall normally be presided over by the vice-president shall be made by the Court at the start of each judicial year.

Article 42

(Quorum and deliberations)

1. The Constitutional Court, in plenary or in section, can only function when a majority of the respective members in office is present, including the president, or the vice-president.
2. Decisions are taken on the majority vote of members present.
3. Each judge has one vote and the president or the vice-president, when the latter substitutes, has a casting vote.
4. The judges of the Constitutional Court have the right to table their reasons for a dissenting vote.

Article 43

(Holidays)

1. The general system for judicial holidays is applied for those processes of non-preventive abstract control of constitutionality and legality of legal rules and appeals against decisions.
2. For the remaining cases there are no judicial holidays.
3. In appeals against judicial decisions concerning penal sentencing in which any of the parties involved is still in custody or in prison without a final sentence, the procedural periods established by law continue during the judicial holidays, except in those cases set out in the following number.
4. The periods allowed for submission of allegations or replies by the detained or imprisoned parties are suspended during the month of August, without prejudice, however, to the possibility that the reporter judge might decide the contrary or that the interested party might perform the act during this period.
5. The procedural periods established by law may also continue during judicial holidays, if the reporter judge so decides at the request of any of the parties involved in the appeal, in the case of a constitutional appeal against a decision given in a process defined as urgent by the respective procedural law.
6. Judges shall take their holidays between 15 August and 14 September but a permanent working quorum for the Court plenary and for each of the Court's sections must be guaranteed.
7. There are no judicial holidays in the secretarial department.

Article 44

(Representation of Public Prosecutor's Office)

The Public Prosecutor's Office is represented before the Constitutional Court by the State Attorney who may delegate his duties to the Vice State Attorney or to one or more Deputy State Attorneys.

SECTION II

Secretarial and support services

Article 45

(Organization)

The Constitutional Court has secretarial and support services, the organisation, composition and running of which are regulated by decree.

Article 46

(Secretarial department)

1. The secretarial department and support services, except for offices, are coordinated by a general secretary and superintended by the president of the Court.
2. The rights, duties and benefits of Court employees are regulated by decree-law.
3. Employees in the secretarial department have the rights and benefits enjoyed by employees in the secretarial department of the Supreme Court of Justice, and are subject to the same duties and restrictions.

Article 47

(Approval)

Approval of employees for the secretarial and support services of the Constitutional Court is the responsibility of the president of the Court.

CHAPTER IV

Financial Regime

Article 47-A

(Budget)

1. The Court approves its own draft budget and submits it to the government within the periods set for drafting the law for the State Budget to be submitted to the Assembly of the Republic. It should also provide any details the Assembly might request on the matter.
2. The Court approves the budget for its own income, described in the following article, and the corresponding expenditure which is recorded under income in accordance with the compensation regime.

Article 47-B

(Own income)

1. In addition to the funds received from the State Budget, the following are deemed to be the Constitutional Court's own income: the management balance from the previous year, revenue from costs and fines, revenue from the sale of its own publications or from services provided by its documentary support centre and also any other income that might be assigned to it by law, contract or by any other title.
2. The revenue from own income referred to in the preceding number may be applied to running and capital expenses which in each year can not be borne by the amounts in the State Budget, expenses resulting from publishing publications or providing services by the documentary support centre and also expenses incurred with carrying out studies, analyses and other extraordinary work, including the corresponding remuneration to permanent or contracted staff.

Article 47-C

(Financial management)

1. The Constitutional Court, in terms of running its budget, bears ordinary ministerial responsibility in matters of financial administration, namely as provided for in article 3 and article 4 of Decree-Law n.º 71/95, of 15 April. It may delegate this responsibility to the president.
2. The president of the Court is responsible for authorising expenses up to the limits set in sub-paragraph b) of n.º 2, in sub-paragraph b) of n.º 3 and in sub-paragraph b) of n.º 4 of article 7, and also in sub-paragraph b) of n.º 1 of article 8 of Decree-Law n.º 55/95, of 23 March. He may delegate responsibility for certain expenses and within the limits set in the corresponding dispatch to his chief of staff or to the general secretary.
3. Expenses which by their nature or amount exceed the responsibility referred to in the preceding number shall be authorised by the Court as shall those that the president sees fit to submit to it.

Article 47-D

(Administrative Board)

1. The Constitutional Court shall have an administrative board, composed of the president of the Court, two judges nominated by the Court, the general secretary and the head of the administrative and accounts section.

2. The administrative board shall be responsible for running and monitoring the financial management of the Court, namely by:

- a) Drawing up draft budgets for the Court and giving opinions, when asked, on any proposed budget amendments that may become necessary;
- b) Authorising payment of expenses, irrespective of which body authorised them;
- c) Authorising permanent petty cash funds to be set up and held by the respective person responsible in the president's office, the secretarial office and the documentary support centre for direct payment of small expenses, laying down the rules governing control of these funds;
- d) Managing the accounts and inspecting the book-keeping;
- e) Carrying out any other duties provided for by law.

Article 47-E

(Requisition of funds)

1. Every month the Court requisitions from the Directorate-General for the Budget the amounts it needs from the account of the total funds that it has been allocated.

2. After having been stamped by the Directorate-General for the Budget, the requisitions referred to in the preceding number are transmitted to the Bank of Portugal together with the competent authorisations for payment. The amounts are then withdrawn and deposited in the name of the former at the Caixa Geral de Depósitos.

3. The president of the Court can authorise that the monthly system for any of the Constitutional Court's budgetary funds be dispensed with and may thus request the total or partial early payment of the respective monthly amounts.

Article 47-F

(Account)

The annual management account for the Constitutional Court is prepared by the administrative board and submitted within the legal period to the Accounts Tribunal for judgement.

TITLE III

Procedure

CHAPTER I

Distribution

Article 48

(Applicable legislation)

The regulations of the Civil Procedural Code regulating the provisions for supreme courts, for all that is not specially regulated in this law, are applicable to the distribution of cases.

Article 49

(Types)

For the purposes of distribution the following types of case exist:

1. Cases for the preventive control of constitutionality;
2. Other cases for the abstract control of constitutionality or legality;
3. Appeals;
4. Claims;
5. Other cases.

Article 50

(Reporter Judges)

1. For the purposes of the distribution and substitution of reporter judges, the order of judges is selected annually, during the first session of the judicial year.

2. The president does not receive cases for the purpose of reporting.
3. The vice-president is exempt from the distribution of cases of the 2nd and 4th types, and only a quarter of the cases of the 3rd type which fall to each of the remaining judges are distributed to him.

CHAPTER II

Procedures for the control of constitutionality and legality

SUB-CHAPTER I

Cases for abstract control

SECTION I

Common provisions

Article 51

(Receipt and admission)

1. A request for the appraisal of the constitutionality or legality of the rule of law mentioned in articles 278 and 281 of the Constitution is addressed to the president of the Constitutional Court and should specify, apart from the rules to be assessed, the constitutional rules or principles violated.
2. Received by the secretarial department and duly registered, the request is delivered to the president of the Court who decides on its admission bearing in mind the following numbers and articles.
3. In the case of absence, inadequacy or obvious lack of clarity in the indications mentioned in n.º 1, the president notifies the author of the request to correct it, after which the file will once again be submitted for the purposes of the previous number.
4. The decision of the president, who admits the request, does not preclude the possibility of the court rejecting it definitively.
5. The Court can only declare the unconstitutionality or the illegality of rules that are the object of the request for examination, but they may do this on the grounds of violation of constitutional rules or principles different from those in which violation was claimed.

Article 52

(Non-admission of the request)

1. The request may not be admitted when it is formulated by a person or entity that is not legitimate, when its inadequacies have not been corrected or when it has been submitted outside the deadline.
2. Should the president rule that the request not be admitted, it is submitted for discussion while at the same time copies of the request are sent to the remaining judges.
3. The Court decides within a period of 10 days or, when it is a case of preventive security, 2 days.
4. When the request is refused admission the entity submitting the request is notified.

Article 53

(Withdrawal of request)

The request may only be withdrawn in procedures of preventive control of constitutionality.

Article 54

(Hearing the body responsible for writing the rule)

When the request has been admitted, the president notifies the body that issued the contested rule to respond, if deemed fitting, and give an opinion within 30 days or, when it is a question of preventive control, 3 days.

Article 55

(Notification)

1. The notifications mentioned in the previous articles are made by hand-delivery, or they are sent by post, telegram, telex or fax, according to the circumstances.

2. Notifications are accompanied, depending on the case, by a copy of the ruling or the decision, with the respective grounds, or by the petition submitted.
3. In the case of a collegiate body or its members, notifications are made in the person of the respective president or whoever substitutes him.

Article 56

(Deadlines)

1. The periods referred to in the preceding articles and in the following sections are continuous.
2. When the period to carry out a procedural act ends on a day when the Court is closed, including days when public holiday bridges have officially been allowed, the deadline is transferred to the next working day.
3. The periods in the cases regulated in Sections III and IV are, however, suspended during the judicial holiday period.
4. Deadlines are extended by 10 days, or 2 days in the case of preventive control, when the acts involve a body or entity with their head office outside the mainland of the Republic.

SECTION II

Procedures for preventive control

Article 57

(Deadlines for submission and receipt)

1. Requests for control of constitutionality mentioned in n.ºs 1, 2 and 4 of article 278 of the Constitution should be submitted within a period of 8 days as mentioned, depending on the case, in n.ºs. 3 and 6 of the same article.
2. The president of the Constitutional Court has a period of 1 day in which to accept the request, use the facility envisaged in n.º 3 of article 51, or submit the file for discussion for the purposes of n.º 2 of article 52.
3. The author of the request has 2 days in which to correct the request.

Article 58

(Distribution)

1. Distribution is done within a period of 1 day counting from the date on which the request enters the court.
2. The process is immediately assigned to the reporter judge so that within a period of 5 days a memorandum can be drawn up containing a list of the questions on which the Court should make a statement and propose a solution, giving a summary indication of the respective grounds, and the secretarial department shall notify the reporter judge of the answer from the body that issued the rule, as soon as it is received.
3. When the process has been distributed, copies of the request are delivered to all the judges, the same being done with the answer and the memorandum, whenever these are received by the secretarial department.

Article 59

(Decision making)

1. When the copy of the memorandum has been delivered to the president the respective file is submitted to him, and the case included on the agenda of the plenary session to be held within a period of 10 days counting from receipt of the request.
2. A decision may not be taken before 2 days have elapsed from the time at which copies of the memorandum were delivered to all the judges.
3. When the discussion has been concluded and the decision taken by the Court, the process is assigned to the reporter judge or, should the solution of the latter not be accepted, to the judge who should replace him to draw up the judgement within a period of 7 days, and subsequently sign it.

Article 60

(Emergency procedure)

The deadlines mentioned in the previous articles are shortened by the president of the Court when the President of the Republic uses the facility conferred on him by n.º 8 of article 278 of the Constitution.

Article 61

(The effects of the decision)

The decision given by the Constitutional Court on unconstitutionality in the preventive control procedure has the effect envisaged in article 279 of the Constitution.

SECTION III

Cases of successive control

Article 62

(Deadline within which the request is admitted)

1. Requests for appraisal of unconstitutionality or illegality mentioned in sub-paragraphs a) to c) of n.º 1 of article 281 of the Constitution may be submitted at any time.
2. There is a 5-day deadline for the secretarial department to submit the request to the president of the Court and a 10-day deadline for the president to decide on its admission or to apply the facilities envisaged in n.º 3 of article 51 and in n.º 2 of article 52.
3. The author of the request has 10 days in which to make any corrections.

Article 63

(Preliminary discussion and distribution)

1. A copy of the file is distributed to each judge with the reply from the body that issued the rule, or after the deadline established for this purpose has elapsed without a reply being received. The file is accompanied by a memorandum in which the president of the Court has formulated the objection and background questions which the Court must reply to, as well as any documents of reputed interest.
2. At least 15 days after the memorandum has been sent, it is submitted for debate and, when the Court has decided its approach to the questions to be resolved, the case is assigned to a reporter judge appointed through a draw or, if the Court sees fit, by the president.

Article 64

(Requests with the same object)

1. When a request has been admitted, any others with the same object that are also admitted are included in the file concerning the first.
2. The body that issued the rule is notified of the submission of the subsequent request, but the president of the Court or the reporter judge may dispense with a written opinion on the same whenever they consider that this is not necessary.
3. If it is decided that a further hearing should not be dispensed with, a period of 15 days is granted for the purpose, or the initial period extended for a further 10 days should the period not have elapsed.
4. Should distribution already have been made, the period mentioned in n.º 1 of article 65 is extended for 15 days.

Article 64-A

(Requisition for information)

The president of the Court, the reporter judge or the Court itself may request from the bodies or entities involved, any information deemed necessary or useful for examining the request and arriving at a decision on the case.

Article 65

(Decision-making)

1. When the file has been distributed to the reporter judge, the latter, within a period of 40 days, draws up a draft decision in harmony with the approach decided by the Court.
2. The secretarial department distributes copies of the draft referred to in the previous number to all the judges and, when the president has received his copy, the case is

ready to be included on the agenda of the Court session held after at least 15 days have elapsed following distribution of the copies.

3. The president may reduce the periods mentioned in the previous numbers by half when serious reasons justify this and after hearing the opinion of the Court.

4. If the petitioner so requests it on acceptable grounds and if the body who issued the rule agrees, the president, after hearing the opinion of the Court, will decide whether priority should be given to consideration and decision of the case.

Article 66

(Effects of the statement)

A statement of unconstitutionality or illegality which is binding has the effects envisaged in article 282 of the Constitution.

SECTION IV

Cases for the control of unconstitutionality by omission

Article 67

(Remission)

The system established in the previous section, apart from the effects, is applied to the procedure for assessing the non-fulfilment of the Constitution through the omission of legislative measures required to make constitutional rules feasible.

Article 68

(Effects of verification)

The decision in which the Constitutional Court verifies the existence of unconstitutionality by omission has the effect envisaged in n.º 2 of article 283 of the Constitution.

SUB-CHAPTER II

Control of constitutionality in judicial cases

Article 69

(Applicable legislation)

The regulations in the Code of Civil Procedure, particularly those regarding the use of appeals, are subsidiarily applicable to the formalities of appeal to the Constitutional Court.

Article 70

(Decisions that may be appealed)

1. An appeal may be made to the Constitutional Court, in section, regarding the following court decisions:

- a) Those rejecting the application of a rule on the grounds of unconstitutionality;
- b) Those applying a rule the unconstitutionality of which has been raised during the proceedings.
- c) Those rejecting the application of a rule which is included in a legislative act based on the grounds of its illegality in violating a law of reinforced value;
- d) Those rejecting the application of a rule appearing in regional legislation based on grounds of its illegality in violating the statute of an autonomous region or the general law of the Republic;
- e) Those rejecting the application of a rule issued by an organ of supreme national authority with grounds based on its illegality in violating the statute of an autonomous region;
- f) Those rejecting the application of a rule the illegality of which has been raised during the proceedings based on any of the grounds mentioned in sub-paragraphs c), d) and e);
- g) Those rejecting the application of a rule which has previously been judged unconstitutional or illegal by the actual Constitutional Court;
- h) Those rejecting the application of a rule which has previously been judged unconstitutional by the Constitutional Committee according to the exact terms in which it has been submitted for examination by the Constitutional Court;

- l) Those rejecting the application of a rule appearing in a legislative act on the grounds that it contradicts an international convention, or that apply it contrary to what has been previously decided on the matter by the Constitutional Court.
2. The appeals envisaged in sub-paragraph b) and f) of the previous number only apply to decisions that admit no ordinary appeal because the law does not provide for this, or because all those available to the case have been exhausted, except those aimed at standardising jurisprudence.
3. Claims made to presidents of the superior courts are deemed similar to ordinary appeals in cases where appeals are not admitted or are withheld, as are claims against orders of reporter judges for discussion.
4. All ordinary appeals are understood to be exhausted, under the terms of n.º 2, when there has been renunciation, be it that the respective period has passed without the appeal being filed or the appeals filed can not proceed for procedural reasons.
5. Decisions subject to obligatory ordinary appeal, according to the terms of the respective procedural law, may not be admitted for appeal to the Constitutional Court.
6. If the decision admits an ordinary appeal, even for standardising jurisprudence, not submitting an appeal to the Constitutional Court does not preclude the right to submit it for a later decision to confirm the first.

Article 71

(Scope of appeal)

1. Appeals against judicial decisions made to the Constitutional Court are restricted to questions raised regarding unconstitutionality or illegality.
2. In the case envisaged in sub-paragraph 1) n.º 1 of the previous article, the appeal is restricted to questions of a juridic-constitutional and juridic-international nature implied in the decision submitted for appeal.

Article 72

(Legitimacy to appeal)

1. The following may appeal to the Constitutional Court:

- a) The Public Prosecutor's Office;
 - b) Persons who, in agreement with the law regulating the case in which the decision was passed, have legitimacy to file an appeal.
2. The appeals envisaged in sub-paragraphs b) and f) of n.º 1 of article 70 may only be filed by the party that has raised the question of unconstitutionality or illegality in a way that is procedurally appropriate before the court that gave the decision appealed against in terms of the latter being obliged to know it.
 3. The appeal is obligatory for the Public Prosecutor's Office when the rule that was refused application, due to unconstitutionality or illegality, appears in an international convention, legislative act or regulametary decree, or when the cases envisaged in sub-paragraphs g), h) and l) of n.º 1 of article 70 are verified, with the exception of the ruling in the following number.
 4. The Public Prosecutor's Office may abstain from filing an appeal on decisions taken, within the guidelines already established, for the issue in question in the case law of the Constitutional Court.

Article 73

(Irrenunciability of the right to appeal)

The right to appeal to the Constitutional Court may not be renounced.

Article 74

(Extension of appeal)

1. The appeal filed by the Public Prosecutor's Office has an effect on all those who have legitimacy to appeal.
2. The appeal filed by an interested party in the cases envisaged in sub-paragraphs a), c), d), e), g), h) and l) in n.º 1 of article 70 can be used by all other interested parties.

3. The appeal filed by an interested party, in the cases envisaged in sub-paragraphs b) and f) of n.º 1 of article 70 can be used by others according to the terms and limits established in the law regulating the case in which the decision has been made.
4. There can be no subordinate appeal nor may any other party adhere to the appeal already made to the Constitutional Court.

Article 75
(Deadline)

1. An appeal with the Constitutional Court shall be filed within 10 days and interrupts the period for filing other appeals that may be made to the decision, which may then be filed after interruption has ceased.
2. In filing an ordinary appeal, even for standardising jurisprudence, which is not accepted on grounds that no appeal can be made to the decision, the deadline for filing an appeal with the Constitutional Court is counted from the time at which a final decision is given not to admit the appeal.

Article 75-A

(Filing an appeal)

1. An appeal can only be taken to the Constitutional Court by filing a request, in which the applicable sub-paragraph of n.º 1 of article 70 is indicated, also identifying the rule, the unconstitutionality or illegality of which the Court is asked to examine.
2. The appeal having been filed according to sub-paragraphs b) and f) of n.º 1 of article 70, the request should also indicate the rule or constitutional or legal principle considered to have been infringed, as well as the document in which the appellant raised the question of unconstitutionality or illegality.
3. In the case of the appeals envisaged in sub-paragraphs g) and h) of article 70, the request should also identify the decision of the Constitutional Court or the Constitutional Committee which previously judged the rule applied by the decision, against which an appeal is filed, unconstitutional or illegal.
4. The ruling in the previous numbers is applicable, with the necessary adaptations, to the appeal envisaged in sub-paragraph i) of n.º 1 of article 70.
5. If the request for filing an appeal does not include any of the details indicated in this article, the judge shall invite the appellant to submit such information within a period of 10 days.
6. The ruling in the previous numbers is applicable by the reporter judge in the Constitutional Court when the judge or the reporter judge who accepted the appeal for constitutionality has not made the invitation referred to in n.º 5.
7. If the appellant does not reply to the invitation extended by the reporter judge in the Constitutional Court, the appeal is immediately judged abandoned.

Article 76

(Decision on admissibility)

1. It is for the court that made the decision which is the object of appeal to examine the admission of the respective appeal.
2. The request for filing an appeal with the Constitutional Court should be deferred when it does not satisfy the requisites of article 75-A, even after it has been corrected as envisaged in n.º 5 when the decision is not admissible, when the appeal is filed after the deadline, when the appellant lacks legitimacy or when, in the case of the appeals envisaged in sub-paragraphs b) and f) of n.º 1 of article 70, there are no clear grounds for the appeal.
3. The decision admitting the appeal, or determining its effect, does not bind the Constitutional Court, and the parties may contest this decision only in their allegations.
4. The ruling deferring the request to file an appeal or impeding its progress can be appealed to the Constitutional Court.

Article 77

(A query on the ruling deferring admission of the appeal)

1. A decision on a claim against a ruling deferring the request for an appeal or impeding its progress is made by the conference referred to in n.º 3 of article 78-A, with n.º 4 of the same article also being applicable.
2. The deadline for the preliminary examination is ten days for the reporter judge and five days for the State Attorney and the remaining judges.
3. If the question is considered straightforward, the reporter judge, once examination by the State Attorney is completed, may dispense with the opinions of the remaining judges and immediately include the case on the list, with the Court giving a summary decision.
4. The decision may not be refuted, and if the ruling on deferment is revoked, the admissibility of the appeal is therefore considered *res judicata*.

Article 78

(Effects and procedural treatment)

1. An appeal filed for a decision which admits no other appeal, for reasons of the value of the case or jurisdiction limits of the court *a quo*, will have the same effects and procedural treatment it would have had if the value had allowed for this.
2. The appeal filed for a decision which admits an ordinary appeal, not filed or declared extinct, has the effects and procedural treatment of the ordinary appeal.
3. The appeal filed for a decision taken already at the appeal stage retains the effects and procedural treatment of the previous appeal, unless the ruling in the previous number is applicable.
4. In remaining cases, the appeal suspends the effects of the decision and rises in the actual proceedings.
5. When, by applying the rulings of the preceding numbers, the appeal is held suspended, the Court, in conference, may officiously and exceptionally merely devolve it, if by so doing, this does not affect the usefulness of the decision to be proffered.

Article 78-A

(Preliminary judgement and summary decision of the reporter judge)

1. If it is understood that the object of the appeal cannot be known or that the question to be resolved is straightforward, namely because it has been the object of a previous Court decision or because it is manifestly unfounded, the reporter judge gives a summary decision which may consist of a simple remit to the previous case law of the Court.
2. The provisions of the preceding number apply when the appellant, after being notified under the terms of n.ºs 5 or 6 of article 75-A, does not fully indicate the details required by n.ºs 1 to 4 of this article.
3. The summary decision of the reporter judge can be appealed against to the conference, which is composed of the president or vice-president, the reporter judge and one other judge from the respective section, nominated by the plenary of the section in each judicial year.
4. The conference makes final decisions on appeals when the participating judges are in unanimous agreement but this decision is the responsibility of the plenary of the section when they are not unanimous.
5. When the provisions set out in n.º 1 do not need to be applied and, thus, when the conference or the plenary of the section decide that they must know the object of the appeal or order the respective proceedings to continue, the reporter judge ensures the appellant is notified to submit allegations.

Article 78-B

(Powers of the reporter judge)

1. It is the responsibility of the reporter judges to determine when appeals are abandoned, declare a stay of proceedings when imposed by law, allow withdrawal of the appeal, correct the effect of its filing, invite the parties to perfect the conclusions of the respective allegations, order or refuse the attachment of documents and opinions, determine the proceedings extinct for various reasons arising from the

judgement, pass judgement on the incidents raised, have the proceedings returned to the court *a quo* for the acknowledgement of any outstanding questions that may lead to the appeal being deemed unnecessary, and they have all other powers envisaged in law and in the Court's rules of procedure.

2. Decisions of the reporter judges may be appealed against to the conference under terms of n.º 3 of article 78-A, with n.º 4 of the same article also applicable.

Article 79

(Allegations)

1. Allegations for the appeal are always produced in the Constitutional Court.
2. Deadlines for allegations are 30 days as from the respective notification, except for the appeals provided for in n.ºs 3 to 5 of article 43, which shall be set by the reporter judge at between 10 and 20 days.

Article 79-A

(Plenary intervention)

1. The president may, with the agreement of the Court, rule that the hearing take place with plenary intervention when he considers this necessary to avoid a divergence in case law or when this is justified because of the nature of the question to be judged. In this case the file is examined, for 10 days, by each one of the judges who have not yet examined it, with a copy of the memorandum, if this has already been presented.
2. For appeals filed in a penal process, the facility envisaged in the previous number should be exercised prior to distributing the process, while in the remaining cases this facility may be exercised up to the time when the file is sent for inclusion on the agenda for judgement.
3. The provisions of the preceding numbers, except for the examination periods, apply equally to the appeals provided for in article 77.

Article 79-B

(Judgement of the object of appeal)

1. Apart from the cases in article 78-A, the rulings in the Civil Procedural Code that do not contradict the nature of the appeal are observed although the appeal, accompanied by the memorandum or draft decision drawn up by the reporter judge who is granted a 30-day period to do this, should be examined by each of the judges in the section, for a period of 10 days.
2. Should a memorandum have been written, once the discussion has been concluded and decision taken on the questions it refers to, the case is delivered to the reporter judge or, should his opinion not be accepted, to the judge who is to substitute him for the decision to be drafted within a period of 30 days.
3. In cases referred to in n.ºs 3 and 5 of article 43 and also in those cases in which personal rights, freedoms and guarantees are at stake, the periods established in the previous numbers are reduced by half, and the reporter judge should confer priority on such cases.

Article 79-C

(Cognitive powers of the Court)

The Court may only judge unconstitutional or illegal the rule which, depending on the case, the decision being appealed has applied or has refused application, but this can be done on the grounds of infringement of rules or constitutional or legal principles different from those for which infringement was invoked.

Article 79-D

(Appeal to plenary)

1. If the Constitutional Court decides that there has been unconstitutionality or illegality in a manner different to what was previously adopted for the same rule by any of the Court's sections, an appeal can be made on this decision before the Court's plenary, compulsory for the State Attorney when he intervenes in the case as appellant or respondent.

2. The appeal envisaged in the previous number is processed without further distribution and will proceed even if no allegations have been submitted by the appellant.
3. When the period for submitting allegations has elapsed, the case examined by the judges will go before the State Attorney, if the latter is not the appellant, for a period of 10 days, and after to all the judges, for a period of 5 days.
4. All examinations having been completed, the case is included on the list for hearings.
5. The discussions are based on the decision being appealed and, once completed and the Court's decision made, the final decision is drawn up by the reporter judge or, if his opinion is not accepted, by the judge who should replace him.
6. Should the Court maintain the decision appealed, the final agreement may be limited to confirming this, referring back to the respective grounds.
7. The ruling in this article is correspondingly applicable in the case of a divergence from the Court's case law found within the appeal envisaged in sub-paragraph i) of n.º 1 of article 70.

Article 80

(Effects of decision)

1. The decision on the appeal determines *res judicata* regarding the question of unconstitutionality or illegality.
2. Should the Constitutional Court judge the appeal to be founded, even if only partially, the proceedings drop back to the court from which they came, so that this same court, depending on the case, can change the decision or have it changed in agreement with the judgement on the question of unconstitutionality or illegality.
3. In the case of a judgement of unconstitutionality or legality on the rule applied in the decision appealed, or refused application, being founded on a particular interpretation of this same rule, this should be applied with the same interpretation in the case in question.
4. When the decision not admitting the appeal or denying that it has grounds is transited in *res judicata* the decision appealed transits as well, if all ordinary appeals have been exhausted, or if they have not been exhausted, the respective time limit immediately comes into force.
5. The ruling in the previous numbers is applicable, with the necessary adaptations, to the decision to appeal envisaged in sub-paragraph i) of n.º 1 of article 70.

Article 81

(Record of decisions)

All the decisions of the Constitutional Court in which the unconstitutionality or illegality of a rule is declared are recorded in a ledger for this purpose with a respective copy, authenticated by the secretary, kept in the Court archives.

Article 82

(Proceedings applicable to repeating the judgement)

Whenever the same rule has been judged unconstitutional or illegal in three specific cases, the Constitutional Court may, at the initiative of any of its judges or the State Attorney, promote the organisation of a file with copies of the corresponding decisions, which is submitted to the president, following the procedure laid down for successive abstract control of constitutionality or illegality envisaged in this law.

Article 83

(Legal Assistance)

1. In appeals made to the Constitutional Court, the appointment of a lawyer is obligatory, without prejudicing the ruling in n.º 3.
2. Only those who may advocate before the Supreme Court of Justice may do so before the Constitutional Court.
3. For appeals filed on decisions taken by administrative and fiscal courts the ruling in sub-paragraph a) of article 73 of Decree-Law n.º 129/84, of 27 April, and in articles 104, n.º 2, and 131, n.º 3, of Decree-Law n.º 267/85, of 16 July, is applicable.

Article 84

(Legal costs, fines and compensation)

1. Appeals to the Constitutional Court are free of charge, with the exception of the ruling in the following numbers.
2. The Court shall charge the losing party with costs in the appeals envisaged in subparagraphs *b*) and *f*) of n.º 1 of article 70 in which the object is known.
3. The Court shall charge the appellant when the appeal is not acknowledged as a result of its not fulfilling some element for admissibility.
4. Claims made to the Constitutional Court as well as claims made on decisions taken by the Court, are subject to charges when deferred.
5. The system of legal costs envisaged in the previous numbers, including the respective exemption regime, shall be decreed by decree-law.
6. The Constitutional Court may, when the case arises, fine and demand indemnity from any of the parties as litigants in bad faith, according to the terms of procedural law.
7. Whenever the court considers that any of the parties should be judged a litigant in bad faith, the reporter judge shall state clearly in the proceedings the reason for his opinion and shall order a hearing for the interested party within two days.
8. If it is clear that, with a specific request, it is intended to oppose compliance with the decision given in the appeal or in the claim or if the case is sent down, the provisions of article 720 of the Civil Procedural Code will be observed, but a copy of the decision will only be provided after costs owed to the Court, fines which the Court has applied and compensation that has been set have been paid.

Article 85

(Legal Aid)

In appeals made to the Constitutional Court the parties may litigate benefiting from legal aid under the terms of the law.

CHAPTER III

Other proceedings

SUB-CHAPTER I

Proceedings involving the death, permanent physical incapacity, temporary impediment, removal from office or dismissal of the President of the Republic

Article 86

(Initiative for the procedures)

1. The State Attorney of the Republic notifies the Constitutional Court to ascertain and declare the death or permanent physical incapacity of the President of the Republic.
2. The initiative for the procedure of ascertaining and declaring the temporary impediment of the President of the Republic, when this is not taken by the latter, is the responsibility of the State Attorney of the Republic.
3. It is the responsibility of the Speaker of the Assembly of the Republic to initiate the procedure before the Constitutional Court regarding the removal of the President of the Republic from office in the case of n.º 3 of article 129 of the Constitution.
4. It is the responsibility of the President of the Supreme Court of Justice to initiate the procedure for dismissing the President of the Republic in the case of n.º 4 of article 130 of the Constitution.

Article 87

(Death of the President of the Republic)

1. Should the death occur of the President of the Republic, the State Attorney for the Republic shall immediately demand that this be verified by the Constitutional Court, submitting proof of death.
2. The Constitutional Court, in plenary, shall immediately verify the death and declare the position of President of Republic vacant.

3. The Speaker of the Assembly of the Republic is immediately notified of the declaration of the vacancy existing due to the death of the President of the Republic, and the Speaker is automatically invested with the duties of the President of the Republic in the interim.

Article 88

(Permanent physical incapacity of the President of the Republic)

1. Should the President of the Republic be permanently physically incapacitated, the State Attorney of the Republic shall request that the Constitutional Court verify this fact and immediately submit all available proof.
2. On receiving this request, the Court, in plenary, shall immediately proceed to appoint three medical specialists who should submit a report within a period of 2 days.
3. The Court, whenever possible hearing the President of the Republic, takes its decision in plenary on the day following the submission of the report.
4. The ruling in n.º 3 of the previous article is applicable to a declaration on the vacancy of the position due to the permanent physical incapacity of the President of the Republic.

Article 89

(Temporary impediment of the President of the Republic)

1. The verification and declaration on the temporary impediment of the President of the Republic to exercise his duties may be requested by the latter or by the State Attorney and all that is applicable from the ruling in the previous article is applied here.
2. Previously the State Attorney, whenever possible, will hear the President of the Republic.
3. The Court, in plenary, orders that measures be taken to provide the necessary proof, and whenever possible hears the President of Republic, and decides within 5 days counting from the submission of the request.
4. The President of the Republic notifies the Constitutional Court when his temporary impediment has ceased and the Court, having heard the State Attorney, declares that the temporary impediment of the President of the Republic has ceased.

Article 90

(Removal from office of the President of the Republic due to absence from national territory)

1. It is the responsibility of the Speaker of the Assembly of the Republic to request the Constitutional Court to verify the removal from office of the President of the Republic in the case envisaged in n.º 3 of article 129 of the Constitution.
2. The Court meets in plenary session within 2 days and declares that the removal from office has been verified if it considers that this situation is duly proved, or orders that necessary measures be taken to prove this, hearing whenever possible the President of the Republic and the Speaker of the Assembly of the Republic, after which the Court rules.

Article 91

(Dismissal of the President of the Republic from office)

1. Should the Supreme Court of Justice rule that the President of the Republic is guilty of a crime committed in the exercise of his duties, the President of the Supreme Court of Justice immediately sends a certified copy of the decision to the Constitutional Court for the purposes of n.º 3 of article 130 of the Constitution.
2. Having received the certificate, the Court meets in plenary session on the following day.
3. Having verified the authenticity of the certificate, the Court declares that the President of the Republic be dismissed from office.
4. The ruling in article 87 is applicable to the declaration of dismissal.

SUB-CHAPTER I-A

Proceedings relating to disputes concerning loss of seat of members

Article 91-A

(Disputes over loss of seat of members)

1. The decision of the Assembly of the Republic declaring loss of seat of members may be contested on the grounds that it violates the Constitution, the law or the rules of procedure, within a period of five days from the date of the event.
2. Any member whose seat has been declared lost can legitimately appeal, as can any parliamentary group or a minimum of 10 members actively in office.
3. The process is distributed and documented within a period of two days, and the Assembly of the Republic is notified, in the person of the Speaker of the Assembly, to reply to the objection within five days.
4. When the reply period has elapsed, the process is submitted to the reporter judge and the terms of n.ºs 4 to 6 of article 102-B are followed, with a five-day period for a decision to be taken.

Article 91-B

(Disputes over loss of seat of regional members)

The ruling of the preceding article, with the necessary adaptations, applies to the loss of seat of regional members.

SUB-CHAPTER II

Electoral proceedings

SECTION I

Proceedings regarding the election of the President of the Republic

SUB-SECTION I

Nominations

Article 92

(Submission and selection)

1. Nominations are received by the president of the Court.
2. On the following day, when the deadline is met for submitting nominations, the President proceeds, in the presence of nominees or their appointed representatives, to randomly select the number allocated to the nominees on the voting papers.
3. The President immediately has a list posted on the door of the Court giving the names of the nominees, listed according to the selection.
4. The selection is registered and copies are sent to the National Commission for Elections, to the ministers of the Republic in the autonomous regions and to the civil governors.

Article 93

(Admission)

1. When the period for submission of nominations is closed, the Constitutional Court, in a section meeting appointed at random, verifies the regularity of procedures, the authenticity of documents and eligibility of nominees.
2. Non-eligible nominees are rejected.
3. On verifying procedural irregularities, the nominee's appointed representatives will be immediately notified to correct them within a period of 2 days.
4. The decision is given within a period of 6 days counting from the close of the period for submitting nominations. It covers all the nominations and is immediately notified to the appointed representative.

Article 94

(Appeal)

1. An appeal may be made to the Court plenary and filed within a period of one day, regarding the final decision on the submission of nominations.
2. The request for lodging an appeal, which will include the grounds, shall be accompanied by all items of evidence.

3. Should the appeal be against the admission of a nomination, the respective appointed representative will immediately be notified, for the latter or the nominee to reply, should they wish to do so, within a period of one day.

4. If the appeal is against the non-admission of a nomination, the appointed representative of the other nominees shall be immediately notified, even if not admitted, for them or the nominees to reply, should they wish to do so, within a period of one day..

5. The appeal shall be decided within a period of one day counting from the close of the period mentioned in the previous two numbers.

Article 95

(Notification of admission of nominations)

The list of nominations definitively admitted is sent to the National Elections Commission, to the ministers of the Republic and autonomous regions and to the civil governors, within a period of 3 days.

SUB-SECTION II

Withdrawal, death or incapacity of nominees

Article 96

(Withdrawal of nomination)

1. Any nominee wishing to withdraw the nomination should do this through a written statement, with the signature recognised by a notary public, and submitted to the President of the Constitutional Court.

2. Once the statement of withdrawal has been verified as being in order, the President of the Court shall immediately have a copy posted on the door of the Court building and notify the National Elections Commission, the ministers of the Republic in the autonomous regions and the civil governors.

Article 97

(Death or permanent incapacity of a nominee)

1. It is the responsibility of the State Attorney to have the death or statement of incapacity of any nominee for President of the Republic verified, for the purposes of n.º 3 of article 124 of the Constitution.

2. The State Attorney should submit proof of death or request the appointment of three medical specialists to verify the nominee's incapacity, in this case providing the Court with all proof available.

3. The Court, in plenary, verifies the death of the nominee or appoints the specialists within a period not exceeding one day.

4. The specialists submit their report within a period of one day if no other period is established by the Court, after which the latter, in plenary, decides on the capacity of the nominee.

5. Having verified the death or declared the incapacity of the nominee, the President of the Court immediately notifies the President of the Republic of the corresponding declaration.

SUB-SECTION III

General balloting of election and respective disputes

Article 98

(General balloting assembly)

1. The general balloting assembly comprises the President of the Constitutional Court and one of the sections, determined by drawing lots, which had not been designated in the draw provided for in n.º 1 of article 93.

2. The appeals which contest decisions of the general balloting assembly are submitted to the Constitutional Court in plenary.

Article 99

[Revoked by Law n.º 143/85]

Article 100

(Procedure and judgement)

1. When an appeal has been submitted, the proceedings immediately go to the president of the Court so that a reporter judge may be appointed by random selection.
2. All nominees definitively admitted are immediately notified to reply on the day following notification.
3. The reporter judge draws up a draft decision within a period of one day, counting from the close of the deadline for replies from nominees, and copies are immediately distributed to the other judges.
4. The plenary session for hearing appeals takes place on the day following distribution of the copies.
5. The President of the Republic and the National Elections Commission are immediately notified of the decision.

SECTION II

Other electoral proceedings

Article 101

(Disputes arising from submission of nominations)

1. The Constitutional Court is responsible for hearing appeals which are judged in plenary against decisions taken by the courts of *nisi prius* regarding any disputes arising from the submission of nominations for elections to the Assembly of the Republic, regional assemblies and local authorities.
2. The procedure for disputes arising from submission of nominations is decided by electoral legislation.
3. In agreement with the ruling in the previous numbers the Constitutional Court has the competencies of the courts of appeal envisaged in n.º 1 of article 32, n.º 2 of article 34 and article 35 of Law n.º 14/79, dated 16 May, in n.º 1 of article 32 and in articles 34 and 35 of Decree-Law n.º 267/80, dated 8 August, in n.º 1 of article 26 and articles 28 and 29 of Decree-Law n.º 318-E/76, dated 30 April and in articles 25 and 28 of Act n.º 701-B/76, dated 29 September.

Article 102

(Electoral judicial disputes)

1. The Constitutional Court receives appeals which are heard in plenary regarding decisions on claims or protests made concerning irregularities during voting and in the partial or general counting of votes for the elections to the Assembly of the Republic, regional assembly and local authorities.
2. The procedure regarding electoral disputes is regulated by electoral legislation.
3. In agreement with the ruling in the previous numbers the Constitutional Court has the competencies of courts of appeal envisaged in n.º 1 of article 118 of Law n.º 14/79, dated 16 May, in n.º 1 of article 118 of Decree-Law n.º 267/80, dated 8 August, in n.º 1 of article 111 of Decree-Law n.º 318-E/76, dated 30 April, and in n.º 1 of article 104, as well as in n.º 2 of article 83, of Decree-Law n.º 701-B/76, dated 29 September.

Article 102-A

(European Parliament)

1. The submission of nominations for election to the European Parliament, appeals regarding the respective final decision and corresponding procedures, as well as the procedure concerning electoral judicial disputes involved in the same election, are regulated by the respective electoral legislation.
2. The provisions of article 98 of the present law apply to the general balloting of election for the European Parliament.

Article 102-B

(Appeal against acts practised by electoral administrative bodies)

1. Filing appeals against decisions taken by the National Elections Commission is done by the appellant filing a request with this Commission, including the respective allegations and indicating that documents are required for verification.
2. One day is allowed for filing an appeal counting from the date on which the appellant becomes aware of the decision contended.
3. The National Elections Commission shall immediately deliver the file, duly completed, to the Constitutional Court.
4. Should it consider it possible and necessary, the Constitutional Court shall hear other interested parties during a period established by the Court.
5. The Constitutional Court shall hear the appeal in plenary during a period in which a practical decision can be reached, but never exceeding 3 days.
6. In appeals dealt with in this article the appointment of a lawyer is not compulsory.
7. The ruling in the previous numbers is applicable to an appeal filed against decisions taken by other bodies of electoral administration.

Article 102-C

(Appeal against application of fines)

1. Filing appeals provided for in n.º 3 of article 26 of Law 72/93, of 30 November, is done by the appellant filing a request with the President of the National Elections Commission, accompanied by the respective reason and the documentary evidence deemed pertinent. In exceptional cases, the appellant may also ask in the request to produce other forms of evidence.
2. Ten days are allowed for filing an appeal counting from the date on which the appellant is notified of the contested decision.
3. The President of the National Elections Commission may uphold his decision after which he shall deliver the file to the Constitutional Court.
4. After the documents have been received by the Constitutional Court, the reporter judge may take any measures he deems fit after which the Court will pass a decision in plenary session.

Article 102-D

(Appeals regarding elections held in the Assembly of the Republic and in the Regional Legislative Assemblies)

1. Filing appeals against elections held in the Assembly of the Republic and in the Regional Legislative Assemblies on the grounds of violation of the law or of the rules of procedure of the respective assembly is done by any member filing a petition, containing the allegation and indicating that documents are required for verification, which is delivered to the respective Speaker.
2. Five days are allowed for filing an appeal counting from the date on which the election was held.
3. The Assembly of the Republic or the Regional Legislative Assembly in question shall, within five days, deliver the file, duly completed and accompanied by its reply, to the Constitutional Court.
4. The ruling in n.ºs 4 to 6 of article 102-B, with the necessary adaptations, is applicable to this process, but the Court should pass decision within a period of five days.

SUB-CHAPTER III

Proceedings regarding political parties, coalitions and fronts

Article 103

(Registration and disputes regarding parties, coalitions and fronts)

1. The procedure for registration and disputes regarding political parties and coalitions or party fronts, even when these are constituted for purely electoral purposes, are governed by applicable legislation.
2. In agreement with the ruling in the previous number, the Constitutional Court, in section, has:

Mahkamah Konstitusi
Pusat Studi Hukum Tata Negara FHUI

- a) the competence of the President of the Supreme Court of Justice envisaged in n.º 6 of article 5 of Decree-Law n.º 595/74, of 7 November, in the wording given to it by Decree-Law n.º 126/75, of 13 March;
- b) the competence to consider the legality of the names, acronyms and symbols of the coalitions for electoral purposes as well as their identity or similarity to those of other parties, coalitions or fronts, and to proceed to the respective comment, under the terms of articles 22 and 22-A of Law n.º 14/79, of 16 May, and articles 16 and 16-A of Decree-Law n.º 701-B/76, of 29 September, all amended by Law n.º 14-B/85, of 10 July;
- c) the competence of the National Elections Commission envisaged in article 22 of Decree-Law n.º 267/80, of 8 August, and in n.º 2 of article 12 of Decree-Law n.º 318-E/76, of 30 April, with the system for appreciation and registration set forth in the norms indicated in the preceding paragraph being applied.

3. In agreement with the ruling in n.º 1, the Constitutional Court, in plenary, has the following competencies:

- a) that of the Supreme Court of Justice envisaged in Decree-Law n.º 595/74, of 7 November;
- b) that of the common courts for ordinary jurisdiction envisaged in article 21 of Decree-Law n.º 595/74, of 7 November.

Article 103-A

(Application of fines to political parties)

1. While exercising the competence set forth in n.º 2 of article 13 of Law n.º 72/93, of 30 November, should the Constitutional Court ascertain non-fulfilment of any of the obligations that bind political parties under the terms of Chapter II of the above law, it shall state this in the documents sent to the State Attorney so that the latter may apply the respective fine.

2. When, outside the situation described in the previous number, any non-fulfilment of any of the obligations referred to therein is seen to have occurred, the president of the Constitutional Court shall determine the proceedings for the corresponding process, which shall immediately be sent to the State Attorney so that he may apply the respective fine.

3. Once the fine has been set by the State Attorney, the president of the Constitutional Court will notify the defendant political party to reply within 20 days and, should it be necessary, to attach any documentary evidence they deem useful or, in exceptional cases, to request production of other forms of evidence, after which the Court shall decide in plenary session.

Article 103-B

(Non-submission of accounts by political parties)

1. When it is found that the accounts relating to the previous year have not been submitted by any political party with the right to a state subsidy after the period set forth in n.º 1 of article 13 of Law n.º 72/93, of 30 November, has elapsed, the president of the Constitutional Court will communicate this fact to the Speaker of the Assembly of the Republic for the purpose envisaged in n.º 5 of article 149 of the same law.

2. An identical procedure shall be adopted as soon as the accounts of the party in default are submitted.

3. In either case, the president of the Court shall apprise the political party in question of the communications to the Speaker of the Assembly of the Republic.

Article 103-C

(Actions contesting the election of holders of office on organs of political parties)

1. Actions contesting the election of holders of office on organs of political parties may be brought by any militant who is a voter or candidate in the election in question or, when there are omissions in the electoral rolls or lists, by militants whose registration has been omitted.

2. The contestant should justify his status as a militant who can legitimately make the request and state in the petition the grounds in fact and in law, indicating in particular the Constitutional norms, law or statutes which he considers to have been violated.
3. Objection is only admissible after all internal means to examine the validity and correctness of the election provided for in the statutes have been exhausted.
4. The petition should be submitted to the Constitutional Court within a five-day period as from notification of the decision of the organ which, according to the statutes, is competent to know as a last resort the validity or correctness of the election.
5. Once the process has been distributed in the Constitutional Court, the reporter judge will summon the political party to respond within 5 days, advising them that the reply should be accompanied by the electoral minutes, requests submitted by the contestant in the internal proceedings, decisions of the competent organs and other documents relating to the objection.
6. The provisions of n.ºs 4 to 6 of article 102-B, with the necessary adaptations, are applicable to the hearing given to the objection, with the Court, in section, making a decision within a period of 20 days counting from the end of the preparatory inquiries.
7. If the party statutes do not provide for any internal means to examine the validity and correctness of the election, the period allowed for objection is five days as from the date of the election, except if the contestant had not been present, in which case this period shall run from the date on which it was possible for him to know about the election. Once the petition has been submitted, it follows the path provided for in the two preceding numbers, with the necessary adaptations.
8. The final decision may be appealed against to the Court plenary but the appeal is limited to matters of law and must be filed, with submission of the respective allegation, within five days. The period for counter-allegations is also five days after which time decision on the case, distributed to another reporter judge, will be made within twenty days.

Article 103-D

(Actions contesting decisions made by political party organs)

1. Any militant of a political party can contest, on the grounds of illegality or violation of a statutory rule, the punitive decisions of the respective party organs taken in a disciplinary process in which he is the defendant, and also decisions of the same bodies which directly and personally affect his rights to participate in the activities of the party.
2. Any militant may contest the decisions of party organs on the grounds of serious violation of essential rules relating to competence or to the democratic functioning of the party.
3. The provisions of n.ºs 2 to 8 of article 103-C, with the necessary adaptations, are applicable to the objection process.

Article 103-E

(Precautionary measures)

1. As a preliminary issue to the actions regulated by articles 103-C and 103-D, the interested parties may request that the effect of the contested elections or decisions be suspended within the periods provided for in n.º 7 of article 103-C, on the grounds of the probability of considerable damage being caused by the election becoming effective or by the decision being executed.
2. The provisions of articles 396 and 397 of the Civil Procedural Code, with the necessary adaptations, are applicable to the request for suspension of effectiveness, with the Constitutional Court, in section, being competent to examine the request.

Article 103-F

(Abolition of political parties)

In addition to what is laid down in applicable legislation, the State Attorney should also demand the abolition of political parties:

- a) which do not submit accounts for 3 consecutive years;

b) which do not list the holders of office in their central organs for a period exceeding 6 years;

c) of which it is impossible to summon or notify in person any of the holders of office of its central organs as per the list recorded in the register held by the Court.

SUB-CHAPTER IV

Proceedings regarding organizations which adhere to a fascist ideology

Article 104

(Statement)

1. Proceedings regarding a statement to the effect that any organization adhering to a fascist ideology, and its consequent abolition, are governed by special applicable legislation.

2. In agreement with the ruling in the previous number the Constitutional Court, in plenary, has the competencies of the Supreme Court of Justice as envisaged in article 6, in n.º 2 of article 7 and in article 8 of Law n.º 64/78, of 6 October.

SUB-CHAPTER V

Procedures for holding referenda and direct consultation with the electorate at local level

Article 105

(Remission)

The procedures for holding national, regional and local referenda are governed by the laws that rule the respective regimes.

SUB-CHAPTER VI

Procedures concerning declaration of income and assets of holders of public office

Article 106

(Registration and filing of declarations)

1. The procedure to adopt for registering and filing declarations of income and assets of holders of public posts will be laid down in an internal regulation of the Constitutional Court.

2. Computer transcription of the contents of these declarations is forbidden without prejudice to the fact that the Constitutional Court can organise a computer database containing the following information: identification, post and number of the declarant's individual file, dates of taking up or leaving office, dates concerning communication of these facts by the competent administrative secretarial departments and, eventually, dates for any notification made should no declaration have been presented in the initial period and, thus, of the timely submission of the declaration, and also the identification reference of decisions made should the declaration fail to be submitted.

Article 107

(Objection to divulgation of declarations)

1. When the submitter of a declaration lodges an objection to full or partial divulgation of the contents of the declaration, the Court secretary shall open a file with the documents which he shall then send to the president.

2. The president of the Constitutional Court shall initiate the necessary preparatory inquiries after which the Court will decide in plenary session.

3. When a pertinent reason is recognised as being liable to justify the objection, the Court's decision shall judge whether to forbid divulgation or it will lay down conditions for the terms and periods in which such can be done.

4. Divulgation of the declaration is forbidden from the moment when objection is declared until the judgement which will decide on it has been passed.

Article 108

(Form of access)

1. Access to the information contained in the declarations is available by consultation in the secretarial office of the Court, during office hours, and the consulter, if a public

body, may accredit for such purpose an agent or officer holding suitable qualifications and level of responsibility.

2. The consultation should be registered in the process itself through a note in which the consulter is identified and the date of the consultation is recorded.
3. Following the consultation, and through a request based on proper grounds, a document certifying the declaration or details therein may be authorised to be passed.

Article 109

(Non-submission of declaration)

1. Should a declaration still fail to be submitted following notification about non-submission during the initial period, and after the subsequent period has elapsed, the Constitutional Court secretary will draw up a document certifying the fact. This document should contain mention of all the details and circumstances necessary to prove failure to submit and the secretary will deliver it to the president who shall forward it to the State Attorney's representative at the Court for any purpose deemed fit.
2. If there be any doubt, even after the notification referred to in the preceding number has been made, as to the duty to submit a declaration in the case, the president will submit the issue to the Court who will decide in plenary session.
3. The Court's decision is considered *res judicata* as to the existence in that specific case of the duty to submit a declaration.

Article 110

(Communication to the Constitutional Court of condemnatory decisions)

When a condemnatory decision has been passed against the holder of a political post or similar for non-submission of a declaration of assets and income, or for filing a false declaration, as soon as this judgement has become a decision the competent court will communicate it in a certified document to the Constitutional Court.

SUB-CHAPTER VII

Procedures concerning declaration of incompatibility and impediment of holders of political office

Article 111

(Registration and filing of declarations)

1. The procedure to adopt for registering and filing the declarations provided for in n.º 1 of article 10 of law n.º 64/93, of 26 August, will be set out in an internal regulation of the Constitutional Court.
2. The Constitutional Court may organise a computer database for the declarations referred to in the preceding number containing the following information: identification, post and number of the declarant's individual file, dates of taking office, submitting the declaration and, eventually, of any notification provided for in n.º 1 of article 10 of the same law as well as the date of the communication which n.º 2 of article 12 of the same law refers to, and number and date of decisions made by the Constitutional Court under the terms of the same law regarding the declarant.

Article 112

(Appreciation of declarations)

1. When the declarations referred to in the preceding number have been received, the Constitutional Court secretary organises and prepares the individual process of the respective declarant and opens a file to be examined by the State Attorney so that he may request the Court's intervention if he finds that the law has not been followed.
2. Should the situation envisaged in the final part of the previous number occur, the president of the Court shall order that the declarant be notified so he may respond within 20 days to the request from the State Attorney and, if necessary, attach any documentary evidence that he deems relevant or, in exceptional cases, request that he might produce other forms of evidence. Following this, the Court will decide in plenary session.

3. If the Court considers that there are grounds for doubt to exist regarding a situation of incompatibility occurring, it will limit itself to ordering the situation to cease and will set a deadline for this to happen.

4. The decision of the Court that determines, under the terms of n.º 3 of article 10 of Law n.º 64/93, of 26 August, the loss of a seat or the dismissal of a holder of political office will be published in Series I-B of the *Diário da República* or in the series in which the appointment of the holder to that office was published. The decision will take effect as from the date of publication.

Article 113

(Non-submission of declaration)

The provisions of the preceding article are further applicable when the situation provided for in the final part of n.º 1 of article 12 of Law n.º 64/93, of 26 August, occurs.

TITLE IV

Final and transitional provisions

Article 114

(Members of the Constitutional Commission)

The time during which a member of the Constitutional Commission exercises his duties is the equivalent, for all effects and purposes, of the time that a judge of the Constitutional Court exercises his duties.

Article 115

(Official publication of decisions)

1. Without prejudice to the ruling in article 3, all decisions taken by the Constitutional Court selected by the President of the Court as being of doctrinal interest shall be published in the *Boletim do Ministério da Justiça*.

2. The Constitutional Court publishes its decisions of doctrinal interest in an annual collection.