

**91/1991 Coll.**

**CONSTITUTIONAL ACT**

dated February 27, 1991

**on the Constitutional Court of the Czech and Slovak Federal Republic**

The Federal Assembly of the Czech and Slovak Federal Republic held on the following Constitutional Act:

Article 1

(1) The Constitutional Court of the Czech and Slovak Federal Republic (hereafter only as “the Constitutional Court”) is a body of protection of constitutionality.

(2) Judges of the Constitutional Court are impartial in their decision-making and are bound solely by the Constitution of the Czech and Slovak Federal Republic and other constitutional acts of the Federal Assembly.

(3) The seat of the Constitutional Court is the city of Brno.

Article 2

The Constitutional Court decides:

a) on compliance of the acts of the Federal Assembly and statutory measures of the Praesidium of the Federal Assembly with constitutional acts of the Federal Assembly;

b) on compliance of the acts of the Federal Assembly, constitutional and other acts of the Czech National Council and the Slovak National Council with international treaties on human rights and fundamental freedoms, ratified and published by the Czech and Slovak Federal Republic;

c) on compliance of the constitutional acts and other acts of the Czech National Council and the Slovak National Council and statutory measures of the Praesidium of the Czech National Council and the Slovak National Council with constitutional acts of the Federal Assembly;

d) on compliance of the Directives of the Government of the Czech and Slovak Federal Republic and legal regulations of federal ministries and other federal bodies of state administration with constitutional and other acts of the Federal Assembly;

e) on compliance of the Directives of the Governments of the Czech and Slovak Republics and legal regulations of ministries and other bodies of the state administration of the Czech and Slovak Republics with constitutional and other acts of the Federal Assembly.

Article 3

(1) Should the Constitutional court by its judgment deem non-compliance between and among legal regulations specified in Article 2 the concerned regulations or alternatively certain provisions thereof shall cease to be effective; the bodies that had issued such regulations are obliged within six months of the date of the publication of the judgment of the Constitutional Court to ensure compliance of the concerned regulations with the constitutional acts, international treaties or alternatively with the acts of the Federal Assembly. Should they fail to do so such acts, their parts or provisions shall

cease to remain enforceable after six months from the date of the publication of the judgment; the above shall not apply to the constitutional acts of the Czech National Council and Slovak National Council.

(2) in matters of compliance of the constitutional acts of the Czech National Council and Slovak National Council with the constitutional acts of the Federal Assembly the Constitutional Court shall request the opinion of the Constitutional Court of the concerned republic prior to issuing its Judgment.

(3) The Judgment of the Constitutional Court shall be published in an official collection intended for the publications of the Federal Assembly.

#### Article 4

The Constitutional Court shall decide the disputes on competences

- a) between and among bodies of the Czech and Slovak Federal Republic;
- b) between and among bodies of the Czech and Slovak Federal Republic and bodies of one or more republics;
- c) between and among bodies of the Czech Republic and bodies of the Slovak Republic.

#### Article 5

(1) The Constitutional Court provides interpretation of constitutional acts of the Federal Assembly in the event the matter is disputable. The conditions are stipulated by the act of the Federal Assembly.

(2) The Constitutional Court shall not adopt views on the issues of compliance of the Bills and other legal regulations with the constitutional acts of the Federal Assembly.

#### Article 6

The Constitutional Court shall decide on constitutional complaints directed against measures, enforceable decisions or other forms of interference by bodies of public authority should the complainant allege that those were in violation of his fundamental rights and freedoms guaranteed by the constitutional act of the Federal Assembly or international treaties stipulated within Article 2 Letter b). The conditions are stipulated by the Federal Assembly.

#### Article 7

The Constitutional Court decides whether the decision on dissolution of a political party or a political movement the activities of whose are not limited to the territory of one republic or other decisions concerned with their activities are in compliance with the constitutional and other acts of the Federal Assembly. The conditions are stipulated by the Federal Assembly.

#### Article 8

(1) The Constitutional Court opens proceedings pursuant to Article 2, 4 and 5, should a petition be submitted by:

- a) the President of the Czech and Slovak Federal Republic,
- b) the Federal Assembly,
- c) the Government of the Czech and Slovak Federal Republic or any other central body of the Czech and Slovak Federal Republic,
- d) the Czech National Council,
- e) the Slovak National Council,
- f) the Government of the Czech Republic or any other central body of the Czech Republic,
- g) the Government of the Slovak Republic or any other central body of the Slovak Republic,
- h) the Court in connection with its decision-making activity,
- i) the Prosecutor General of the Czech and Slovak Federal Republic or the Prosecutor General of the Czech Republic or the Prosecutor General of the Slovak Republic.

(2) In the instances stipulated under Article 2 the Constitutional Court shall open proceedings also upon a petition of one fifth of the Deputies of the Federal Assembly or of one fifth of the Deputies of the Czech National Council or of one fifth of the Deputies of the Slovak National Council.

(3) In the instances stipulated under Article 6 the Constitutional Court shall open proceedings upon a constitutional complaint of either a physical or legal person under conditions stipulated by the act of the Federal Assembly.

(4) In the instances stipulated under Article 7 the Constitutional Court shall open proceedings upon a petition of a person entitled to act on behalf of a political party or a political movement affected by a decision.

#### Article 9

No appeal is admissible against the decision of the Constitutional Court.

#### Article 10

(1) The Constitutional Court consists of 12 judges.

(2) Judges of the Constitutional Court are appointed by the President of the Czech and Slovak Federal Republic from among persons proposed by the Federal Assembly, the Czech National Council and the Slovak National Council. Each of the legislative bodies submits a list of eight candidates when the Federal Assembly submits a proposal of four candidates who are citizens of the Czech Republic and four candidates who are citizens of the Slovak Republic. Judges of the Constitutional Court are appointed for a period of seven years.

(3) An upstanding citizen who is eligible for election for the Federal Assembly, has reached the age of 35, holds a university degree in the area of law, and has been actively involved in the legal profession for a period of at least 10 years may be proposed as a candidate for the office of the Judge of the Constitutional Court.

(4) Six judges of the Constitutional Court are appointed from among the citizens of the Czech Republic and six judges from among the citizens of the Slovak Republic.

#### Article 11

(1) The President and the Vice-president of the Constitutional Court are appointed by the President of the Czech and Slovak Federal Republic from among the judges of the Constitutional Court.

(2) Should a citizen of the Czech Republic be appointed as the President of the Constitutional Court, a citizen of the Slovak Republic shall be appointed as the Vice-president or vice versa.

#### Article 12

Should the office of a Judge of the Constitutional Court become available the President of the Czech and Slovak Federal Republic shall appoint the successor from among the citizens of the relevant republic; provisions of Article 10 and 11 shall apply accordingly.

#### Article 13

(1) Judges of the Constitutional Court take the following oath of office to the President of the Czech and Slovak Federal Republic:

“I swear to my honour and conscience to protect the inviolability of the natural rights of a man and of the right of a citizen, to obey the Constitution of the Czech and Slovak Federal Republic and the Constitutional Acts of the Federal Assembly and to decide according to my best conscience both independently and impartially.”

(2) Having taken the oath of office the Judge assumes the office.

#### Article 14

(1) The Constitutional Court decides in a Plenum or in Chambers of four judges.

(2) The Plenum of the Constitutional Court decides on matters pursuant to Article 2, 4, and 7, and further:

- a) on amendment of its internal affairs;
- b) on the constitution of the Chambers and distribution of the agenda among them;
- c) on matters that were not decided by a Chamber due to equality of votes;
- d) on consent pursuant to Article 15 Section 1 and 2;
- e) on petitions pursuant to Article 17.

(3) Other matters are decided by the Chamber of the Constitutional Court.

## Article 15

(1) A Judge of the Constitutional Court may not be criminally prosecuted nor taken into custody without the consent of the Constitutional Court. Should the Constitutional Court withhold consent prosecution is precluded indefinitely.

(2) In the event a judge of the Constitutional Court is captured and detained upon committing a criminal offence the relevant body is obliged to instantly notify the Constitutional Court. Should the Constitutional Court withhold its consent with such detention the judge is to be instantly released.

(3) A Judge of the Constitutional Court cannot be prosecuted for a minor offence or similar unlawful conduct.

(4) Disciplinary liability of the judges of the Constitutional Court shall be governed by the acts of the Federal Assembly.

(5) A Judge of the Constitutional Court may refuse to testify on matters that he learned in the course of his office even at the time when he ceased to act as a judge.

## Article 16

(1) The Office of the judge of the Constitutional Court is incompatible with the office of a deputy of the Federal Assembly, Czech National Council, Slovak National Council nor with membership in the Government of the Czech and Slovak Federal Republic, nor membership in the Government of the Czech Republic nor in the Government of the Slovak Republic nor with an office in a political party or movement.

(2) Judges of the Constitutional Court are professional judges. Their office is incompatible with any income-generating or economic activity other than scientific, educational, art and/or literature related activities.

(3) On the day of the assumption of the office by a judge of the Constitutional Court his deputy mandate, membership in the government and office in a political party or a movement expires.

(4) Monetary and other benefits of judges of the Constitutional Court are stipulated by an act of the Federal Assembly.

## Article 17

A judge of the Constitutional Court may resign from his office. The President of the Czech and Slovak Federal Republic may suspend a judge upon enforceable criminal conviction for wilful criminal offence. The President of the Czech and Slovak Federal Republic may equally suspend a judge with the consent of the Federal Assembly in the event the suspension is proposed by the Constitutional Court as a result of disciplinary proceedings held against the judge or due to the judge having failed to attend the hearings of the Constitutional Court for a period exceeding one year.

## Article 18

(1) Organisation of the Constitutional Court and proceedings before it shall be governed by an act of the Federal Assembly.

(2) Bill on the Organisation of the Constitutional Court and proceedings before it may be submitted also by the Constitutional Court.

Article 19

Costs of the operation of the Constitutional Court including the costs of the Office of the Constitutional Court are covered from the state budget of the federation.

Article 20

The Constitutional Acts of the Czech National Council and Slovak National Council may amend the judiciary of the Czech Republic and the Slovak Republic.

Article 21

Article 36 Section 1 Letter g) and Chapter six (Article 86 to 101) of the Constitutional Act No. 143/1968 Coll., on Czechoslovak Federation are set aside.

Article 22

(1) This Act enters into force on April 1, 1991.

(2) Provision of Article 2 Letter c), as far as the decision-making on compliance of new constitutions of the Czech Republic and the Slovak Republic with the Constitutional Acts of the Federal Assembly shall become effective on the day on which the new Constitution of the Czech and Slovak Federal Republic shall become effective.

**Havel** m. p.

**Dubček** m. p.

**Čalfa** m. p.