

# 2002/04/30 - PL. ÚS 24/01: TV ELECTORAL COMMITTEE

## HEADNOTES

The establishment of the Electoral Committee consistently followed the principle of proportional representation, by the application of which the Chamber of Deputies itself is formed. It can then justifiably be expected from this fact that, within the bounds of its competence, even the Electoral Committee when electing members of the Council of Czech Television, will decide in a manner which respects the distribution of political forces in the lead of the Chamber of Deputies. The establishment of the Electoral Committee (the introduction of § 46a into the Standing Orders of the Chamber of Deputies by Act No. 39/2001 Coll.) is then evidently motivated exactly by the intention to select an appropriate number of candidates of the Council of Czech Television in such a way that in the election of the members themselves of the Council of Czech Television, the Chamber of Deputies had sufficient room for discussion and careful consideration, relating to individual candidates, which alone can lead to rational conclusions justifying their election. In view of the foregoing, then, there is in a certain sense what is termed a „pre-selection“ of candidates for the Council of Czech Television, but one made by a body which has been created by the Chamber of Deputies in the manner described above. This manner cannot, in its final outcome be designated as unconstitutional, not even from the perspective of the objected Art. 21 para. 1 of the Charter, which when respected even in the smallest degree is certainly an important principle, that „Citizens have the right to participate in the administration of public affairs either directly or through the free election of their representatives.“ In view of the foregoing, therefore, the Constitutional Court has come to the conclusion that the manner of constituting the electoral commission does not bear the characteristics of unconstitutionality so that it merely remains to consider the objections raised in the indicated respects as unfounded.

In view of the foregoing and in consequence of the respect for the principle of proportional representation in the constitution of the Electoral Committee, one cannot come to the conclusion that Art. 21 para. 4 of the Charter has been violated nor that citizens have been denied access, on an equal basis, to any elective and other public office (membership in the Council of Czech Television). Once again the evident intention of the Chamber of Deputies should be reiterated, to form its body (while respecting the principle of proportional representation), which evidently created the conditions for making more effective the Chamber of Deputies' activities when electing members of the Council of Czech Television. The maintenance of equal conditions for citizens in terms of access to any elective or other public office can be found in their equal opportunity, by proposing qualified persons, to compete for the office of member of the Council of Czech Television, and that from the perspective of the existence and competence of the Electoral Committee established by the Chamber of Deputies on the basis of the principle of proportional representation.

**CZECH REPUBLIC**  
**CONSTITUTIONAL COURT**  
**JUDGMENT**

**IN THE NAME OF THE CZECH REPUBLIC**

On 30 April 2002, the Plenum of the Constitutional Court in the matter of the petition of a group of Senators of the Czech Parliament proposing the annulment of § 46a of Act No. 90/1995 Coll., on the Standing Orders of the Chamber of Deputies of the Parliament of the Czech Republic, as amended by Acts No. 47/2000 Coll. and No. č. 39/2001 Coll., decided as follows:

**The petition is rejected on the merits.**

**REASONING**

I.

On 14 August 2001, the Constitutional Court received the petition of a group of 23 Senators of the Parliament of the Czech Republic proposing the annulment of § 46a of Act No. 90/1995 Coll., on the Standing Orders of the Chamber of Deputies, as subsequently amended, with the reasoning that, in their view the provision in question is in conflict with Art. 4 para. 3 and Art. 21 paras. 1 and 4 of the Charter of Fundamental Rights and Basic Freedoms (hereinafter "Charter"). The petition presents the following arguments: Act No. 483/1991 Coll., on Czech Television (as subsequently amended by Acts No. 36/1993 Coll., No. 253/1994 Coll., No. 301/1995 Coll., and No. 39/2001, hereinafter "Act on Czech Television ") lays down the conditions, as well as the procedures, for the election of the Council of Czech Television, that is, a body which is elected by citizens (in fact, by the Chamber of Deputies of the Parliament of the Czech Republic) for the purpose of supervising the activities of Czech Television. Pursuant to § 4 para. 2 of the Act on Czech Television candidates are elected from among citizens on the basis of the proposals of organizations and associations representing cultural, regional, social, trade-union, employer, religious, educational, scientific, ecological, and ethnic interests. Proposals shall be submitted to the Chamber of Deputies of the Parliament of the Czech Republic (hereinafter "Chamber of Deputies"), which according to the Act on Czech Television is authorized to elect and recall individual members of the Council of Czech Television. Everybody who meets the criteria in the Act on Czech Television can be elected a member of the Council of Czech Television, that is, anyone who has legal capacity, has permanent residence in the Czech Republic, and has a faultless character, as is laid down in § 4 para. 3 of the Act on Czech Television. Part Three, Article IV, point 2 of Act No. 39/2001 Coll., which amends the Act on Czech Television, as amended by subsequent enactments, and on the amendment to other acts, also amended (supplemented) Act No. 90/1995 Coll., on the Standing Orders of the Chamber of Deputies, as amended by Act. No. 47/2000 Coll., to the effect that an Electoral Committee shall be

created for the purposes of the election of members of the Council of Czech Television. In harmony with § 46a of the Act on the Standing Orders, the Electoral Committee of the Chamber of Deputies is then obliged to select, from among the candidates proposed for membership in the Council of Czech Television, three times the designated number of members in the Council of Czech Television, on the assumption that the number of candidates proposed by authorized organizations and associations, meeting the requirements under the Act on Czech Television, is more than three times higher than the number that should be elected as members of the Council of Czech Television. The group of Senators, petitioners, found that the current version of the contested provisions of § 46a of the Act on the Standing Orders are in conflict with:

- a. with Art. 21 para. 1 of the Charter, which reads: „Citizens have the right to participate in the administration of public affairs either directly or through the free election of their representatives.“
- b. with Art. 21 para. 4 of the Charter, which reads: „Citizens shall have access, on an equal basis, to any elective and other public office.“
- c. with Art. 4 para. 3 of the Charter, which reads: „Any statutory limitation upon the fundamental rights and basic freedoms must apply in the same way to all cases which meet the specified conditions.“

In the petitioners' view, the existing text of § 46a of the Act on the Standing Orders unjustifiably restricts citizens' inalienable right to participate in the administration of public affairs through their representatives, moreover in a manner which enjoys no support (evidently in constitutional acts or statutes, as the petitioners do not present their thesis in more precise details). As a result of the creation of an Electoral Committee, to which was entrusted powers which the Act on Czech Television otherwise entrusts to all Deputies of the Chamber of Deputies, all Deputies who are not members of the Electoral Committee are deprived of the right to vote (and even, by their vote, to strive for re-election by their constituents), as a result of which so are as well those citizens who are represented by the Deputies who are not members of the Electoral Committee. In this way, the right of these citizens to participate in the administration of public affairs (in the administration of Czech Television to the extent provided for in the Act on Czech Television, through the election of member of the Council of Czech Television). The current text of § 46a of the Act on the Standing Orders unjustifiably restricts citizens' inalienable right to have access to any elective or other public office under equal conditions. No rules (criteria) exist governing the activities of this Electoral Committee, consisting in the manner of assessing submitted proposals (for candidates for election to the Council of Czech Television) and leading to the selection of only such number of candidates ". . . fulfilling the prerequisites according to this Statute . . ." in an amount corresponding to three times the number of members of the Council of Czech Television who should be elected to the Council by the Chamber of Deputies. In this way, a substantial portion of the candidates are prevented from standing for election before that body which is designated by law for that purpose, namely the entire Chamber of Deputies, and thereby the right to have access to any elective or other public office under equal conditions. Although the Electoral Committee has, in order to implement the contested provisions in conformity with § 46a para. 3 of the Act on the Standing Orders, adopted a resolution detailing the manner in which to proceed (Resolution No. 1616), nonetheless by adopting Resolution No. 8, it exceeded the bounds of

its statutory empowerment and it restricted the right of candidates to appear before the Electoral Committee of the Chamber (and it alone) to a certain portion of candidates from among those who otherwise fulfill the preconditions for the election as a member of the Council of Czech Television. Moreover, that part of para. 2 of the current text of the contested § 46a which reads “from among those candidates fulfilling the requirements according to this Act, select for election by the Chamber of Deputies candidates in an amount corresponding to three times the number of members who should be elected to the Council,” is confusing as it is not unequivocally clear which act is meant by the formulation “this Act”, when the Act on Czech Television is not cited in the Act on the Standing Orders at all and, in the given context, the legislators could not have had in mind the Act on the Standing Orders. The contested provision of the Act on the Standing Orders is in conflict with the right of citizens (thus, candidates for membership in the Council of Czech Television, as well) that any restrictions on the basic rights, hence also the right to have access to any elective or other public office under equal conditions, should apply the same to all cases which fulfill the prescribed conditions. The disposition of the contested provision itself rests upon the hypothesis, “. . . candidates fulfilling the requirements . . .”, however then the restriction on becoming a subject of the election applies only to a portion of the candidates (to those designated by the Electoral Committee, without the addition of any criteria, hence arbitrarily). If then the possibility to be “permitted to participate” in the election to membership in the Council of Czech Television should become a mere object of agreement among political parties, bargaining, and possibly also compromises, moreover only among parties in the Parliament, then the relevant provision of the Act on Czech Television (§ 4 para. 2) concerning who is authorized to propose candidates for membership of the Council (precisely persons who are outside of political parties, hence interest groups, professional organizations, and citizens associations) would be misguided to the point of being void. However, even from the standpoint of this substantive argument, the contested provision itself is misguided to the point of being void. This conclusion is otherwise supported by the fact that the legislature prescribed a group of subjects for the election by a substantive legal norm (the Act on Czech Television) and the manner of electing is governed by a procedural norm.

The petitioners therefore request the Constitutional Court to annul the contested part of the statute due to its conflict with Art. 4 para. 3, and Art. 21 paras. 1 and 4 of the Charter.

## II.

For its consideration of the petition, the Constitutional Court requested the views of the Chamber of Deputies and the Senate.

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## III.

Pursuant to § 68 para. 2 of Act No. 182/1993 Coll., on the Constitutional Court, as amended, the Constitutional Court reviewed whether the contested act was adopted within the bounds of the powers laid down in the Constitution and in the constitutionally prescribed manner. The Constitutional Court concluded that the designated act was

adopted and issued within the bounds of the constitutionally prescribed powers and in the constitutionally prescribed manner.

#### IV.

The manner of electing members of the Council of Czech Television was newly revised by Act No. 39/2001 Coll., which amends Act No. 483/1991 Coll., on Czech Television, as amended, and on amendments to certain other acts.

Pursuant to § 4 para. 1, third sentence, of the Act on Czech Television, as amended by Act No. 39/2001 Coll., “The Chamber of Deputies of the Czech Parliament (hereinafter “Chamber of Deputies”) elects and recalls members of the Council such that significant regional, political, social, and cultural schools of thought are represented on it.”

Pursuant to § 4 para. 2 of the Act on Czech Television, as amended by Act No. 39/2001 Coll., “Proposals for candidates to be members of the Council shall be submitted to the Chamber of Deputies by organizations and associations representing cultural, regional, social, trade-union, employer, religious, educational, ecological, and ethnic interests. Proposals may be submitted within 15 days of the day the request for the submission of proposals is made public by the Chairperson of the Chamber of Deputies in the manner laid down by resolution of the Chamber of Deputies.”

Provision of § 46a of the Act on the Standing Orders of the Chamber of Deputies, as amended by Act No. 39/2001, provides:

1) For the purpose of election of members of the Council of Czech Television (hereinafter “Council”), the Chamber of Deputies shall establish an Electoral Committee, the members of which shall be elected from among Deputies on the basis of the principle of proportional representation.

2) Should the number of candidates proposed by authorized organizations and associations exceed by more than three times the number of members who should be elected to the Council, the Electoral Committee shall consider the submitted proposals and, from among those candidates fulfilling the requirements according to this Act, select for election by the Chamber of Deputies candidates in an amount corresponding to three times the number of members who should be elected to the Council. If the number of candidates proposed by authorized organizations and associations does not exceed by more than three times the members who should be elected to the Council, the Electoral Committee should submit to the Chamber of Deputies for election all proposed candidates who fulfill the requirements according to this Act.

3) Details on the means of proceeding shall be laid down in a resolution of the Chamber of Deputies, which shall designate the extent to which the electoral code (Annex No. 2) shall apply for the purposes of the procedure under paras. 1 & 2.

By its resolution No. 1492 from the 34th meeting of 2 March 2001, the Chamber of Deputies, pursuant to § 46a para. 3 of the Act on the Standing Orders, laid down more detailed procedures for the Electoral Committee to follow in selecting candidates. In that resolution, it was provided that:

1. the call to submit proposed candidates for membership in the Council of Czech Television by the statutorily prescribed 15-day deadline (§ 4 para. 2 of the Act on Czech Television) shall be sent by the Chairperson of the Chamber of Deputies for publication by the Czech Press Office;

2. in conformity with § 4 and § 5 of the Act on Czech Television, authorized organizations and associations shall submit proposals for candidates as members of the Council of Czech Television to the Electoral Committee of the Chamber of Deputies by the statutorily defined deadline;

3. the Electoral Committee shall assess whether the candidates as members of the Council of Czech Television were submitted by authorized organizations and associations and whether the proposed candidates fulfill the requirements laid down in the cited act;

4. the Electoral Committee shall submit the candidates for the Council of Czech Television to the Electoral Commission of the Chamber of Deputies and shall simultaneously notify the Chairperson of the Chamber of Deputies of this fact. Art. 6, point 2 of the Annex to the Chamber of Deputies' Standing Orders shall not apply. Other provisions of Annex No. 2 to the Chamber of Deputies' Standing Orders do apply to the election of the Council of Czech Television. The mentioned Annex No. 2 is the Electoral Orders for elections held by the Chamber of Deputies, whereas, pursuant to Art. 6 point 2, proposals shall be submitted to the Electoral Commission of the Chamber of Deputies ten days before the election at the latest.

Further, the following resolutions of the Electoral Committee have been submitted to the Constitutional Court:

- resolution no. 6 of the 2nd meeting of 5 April 2001,
- resolution no. 8 of the 3rd meeting of 24 April 2001
- resolution no. 11 of the 4th meeting of 15 May 2001
- resolution no. 16 of the 5th meeting of 22 May 2001, and
- resolution no. 21 of the 5th meeting of 24 May 2001.

It results from these materials that, in the sense of the above-mentioned resolutions of the Chamber of Deputies, the Electoral Committee reviewed exclusively the fulfillment of conditions and requirements laid down by the Act on Czech Television. Above all it ascertained whether the proposals were submitted by organizations and associations such as are laid down in § 4 para. 2 of the Act on Czech Television. Toward this end, on the basis of Resolution No. 6, it called upon these subjects to show, in an appropriate manner, that they meet the prescribed conditions for submitting petitions. Then, by its Resolution No. 11, it excluded from the selection process those candidates who were proposed by subjects who either did not meet the conditions under § 4 para. 2 of the Act on Czech Television, or by subjects who did not demonstrate their authorization to submit proposals as prescribed by the cited provisions. It was further seen from the submitted materials that the Electoral Committee reviewed whether the proposed candidates met the

requirements prescribed in § 4 para. 3 of the Act on Czech Television. Resolution No. 6 gave the Chairperson of the Electoral Committee the duty to request from the proposers documents showing that their proposed candidates meet the prescribed requirements. The required documents were precisely defined in the same resolution. It followed unambiguously from further resolutions of the Electoral Committee that, from the total number of proposed candidates, only those were excluded who were proposed by unauthorized subjects or who did not fulfill the prescribed requirements. Then the Electoral Committee selected the designated number of candidates (triple the number of members of the Council of Czech Television) by secret ballot pursuant to the rules resulting from Annex No. 2 of the Act on the Standing Orders and from Resolution No. 8.

## V.

Pursuant to 44 para. 2 of Act No. 182/1993 Coll., on the Constitutional Court, the Constitutional Court may, with the consent of the parties, dispense with an oral hearing if further clarification of the matter cannot be expected therefrom. In view of the fact that the parties to the proceeding gave their consent (the petitioner by a submission of 20 March 2002, the Chamber of Deputies by a submission on the same day, and the Senate by its submission of 19 March 2002) and of the fact that the Constitutional Court is of the opinion that further clarification of the matter cannot be expected from an oral hearing, an oral hearing was dispensed with in this case.

There are two objections at the heart of the group of Senators' petition proposing the annulment of the indicated provisions of the Act on the Standing Orders: an objection relating to the constitution of the Electoral Committee itself and an objection relating to the restriction on the right of citizens to have access, on an equal basis, to any elective or other public office.

The essence of the objection directed against the very constitution of the Electoral Committee consists in the petitioners' conviction that, in the formation of this committee, every Deputy who was not included in this committee was excluded from a share in the decision-making in the election of members to the Council of Czech Television. In consequence of this exclusion from the Electoral Committee, then, the Deputies not included were unable to represent their voters in this area, in consequence of which the right of their voters to participate in the administration of public affairs is restricted.

In considering this objection, the Constitutional Court was inclined to accept the views expressed in the Chamber of Deputies' pleading, according to which the Act regulates the creation of an Electoral Committee and its activities with the proviso that the detailed procedures of the Committee are left to be regulated by a resolution of the Chamber of Deputies. This rule is entirely in conformity with the constitutional order of the Czech Republic as the Constitution directly provides that both chambers of Parliament shall have authority to create committees and commissions as their internal bodies, without the Constitution designating which specific committees should be created. If the individual chambers can create their own committees by internal resolution, then this is an example of the power of a parliamentary chamber to create its internal bodies in an autonomous manner. In the view of the Constitutional Court, this corresponds to the principle of

representative democracy, for it applies that the Parliament which resulted from free elections adopts, as the bearer of power within the bounds of its competence as defined by the Constitution, a decision which expresses the will of the people in the sense of Article 2 para. 1 of the Constitution of the Czech Republic. Parliament's independence as regards its competence, as well as its internal organizational autonomy, are thus indisputable characteristics of a body representing the sovereign will of the people.

It follows from the general definition of the proportional representation principle that this system of political representation that the proportion of assigned seats more or less corresponds to the proportion of votes received. It is essential for the application of this principle that the basic conditions be formed in relatively stabilized electoral and party relations. According to general theory, among these basic conditions must be included above all a settled electoral mechanism which has been applied in at least three consecutive elections. It is further presupposed that the party system is, to a significant degree, permanent and is not overly fragmented, so that it is possible to determine the minimal measurable size of the "smallest party". Theoretical opinion itself has reached the conclusion (for example, Klíma M., Proportional "disproportional" electoral system following the amendment to the Act on Elections to the Parliament of the Czech Republic, Political Science Magazine, No. 4/2000, p. 349) that stabilized relations for the application of the proportional representation principle have been established in the Czech Republic, a view which the Constitutional Court shares.

In the Constitutional Court's view, from what has been said it can be deduced that if sufficiently stabilized preconditions for the application of the proportional representation system have been formed during the constitution of the Chamber of Deputies as a whole, then naturally there can be no doubt that, in constituting the internal bodies of that chamber of Parliament, the proportional representation principle is a constitutionally conforming foundation. The Act on the Standing Orders of the Chamber of Deputies then lays down more detailed provisions as to the manner in which Deputies take part in the Chamber of Deputies' work. Then, with the exception laid down in § 33 para. 1 of the cited law, Deputies can be a member of no more than two committees. And, as follows from § 46a para. 1 of the cited Act, the proportional representation principle is a basic rule for the constitution of the Electoral Committee, which means that the proportion of Deputies to members of the Electoral Committee should correspond to the proportion of seats in the Chamber of Deputies itself and thus even the proportion of votes obtained by political parties represented in this chamber of the Parliament.

In other words it can be said that the establishment of the Electoral Committee consistently followed the principle of proportional representation, by the application of which the Chamber of Deputies itself is formed. It can then justifiably be expected from this fact that, within the bounds of its competence, even the Electoral Committee when electing members of the Council of Czech Television, will decide in a manner which respects the distribution of political forces in the lead of the Chamber of Deputies. The establishment of the Electoral Committee (the introduction of § 46a into the Standing Orders of the Chamber of Deputies by Act No. 39/2001 Coll.) is then evidently motivated exactly by the intention to select an appropriate number of candidates of the Council of Czech Television in such a way that in the election of the members themselves of the Council of Czech Television, the Chamber of Deputies had sufficient room for discussion



and careful consideration, relating to individual candidates, which alone can lead to rational conclusions justifying their election. In view of the foregoing, then, there is in a certain sense what is termed a „pre-selection“ of candidates for the Council of Czech Television, but one made by a body which has been created by the Chamber of Deputies in the manner described above. This manner cannot, in its final outcome be designated as unconstitutional, not even from the perspective of the objected Art. 21 para. 1 of the Charter, which when respected even in the smallest degree is certainly an important principle, that „Citizens have the right to participate in the administration of public affairs either directly or through the free election of their representatives.“. In view of the foregoing, therefore, the Constitutional Court has come to the conclusion that the manner of constituting the electoral commission does not bears the characteristics of unconstitutionality so that it merely remains to consider the objections raised in the indicated respects as unfounded.

The essence of the objection relating to the restriction on citizens' right to have access, on an equal basis, to any elective and other public office consists in the petitioners' conviction that the regulation at issue does not contain any rule (criteria) for the Electoral Committee's actions such as would consist in a designation of the manner in which the submitted nominations are to be judged and leading to a selection of only such number of candidates (who would otherwise meet the requirements of the Act on Czech Television) which corresponds to triple the number of members of the Council of Czech Television. In the petitioners' view, the application of this provision results in preventing a considerable part of the nominated candidates to stand for election before the body that is designated by law to carry out this task, that is the Chamber of Deputies, thus in denying them access, on an equal basis, to any elective and other public office.

Art. 21 para. 4 of the Charter provides: „Citizens shall have access, on an equal basis, to any elective and other public office.“ This right is closely connected with the power to participate in the administration of public affairs. Such a right is universal, is held by all citizens without regard to gender, nationality, religion, membership in any sort of political group, or any other grounds. By the administration of public affairs is meant participation in the political life of the State, the administration of the State, as well as the administration of public issues, and also represents the opportunity to compete for and hold any sort of office in public life without any sort of discrimination. The mentioned provisions of the Charter correspond to Art. 25, let. c) of the International Covenant on Civil and Political Rights, which provides that every citizen shall have the right and the opportunity, without any of the distinctions mentioned in Art. 2 and without unreasonable restrictions, to have access, on general terms of equality, to public service in his country. Access, on an equal basis, to public service in one's country means that the eligibility requirements cannot exclude anybody from such service on the grounds laid down either in Art. 3 of the Charter or in Art. 2 of the Covenant. On an equal basis also means that, as far as access to public office is concerned, the legal enactments of whatever legal force and the practice of state bodies cannot give preference to or discriminate in favor of some groups of citizens over other groups.

As was already stated, the sole criteria which the Act on Czech Television lays down for the election by the Chamber of Deputies to the Council of Czech Television are that the Council should be elected in such a way " ... that significant regional, political, social, and

cultural schools of thought will be represented on it (§ 4 para. 1 of the Act on Czech Television), where nomination of candidates are submitted to the Chamber of Deputies by organizations and associations representing cultural, regional, social, trade union, employer, religious, educational, scholarly, ecological, and national (ethnic group) interests (§ 4 para. 2 of the Act on Czech Television). The eligibility requirements for being elected a member of the Council of Czech Television are laid down in § 4 para. 3 of the Act on Czech Television and include legal capacity, permanent residence in the Czech Republic, and good character.

The task of ensuring the stated composition of the Council of Czech Television is assigned to the Chamber of Deputies by the Act on Czech Television, but the provision at issue, § 46 para. 2 of the Act on the Standing Orders, is a norm regulating the procedure by which the Chamber of Deputies fulfills its assigned task. The Constitutional Court does not view it as unconstitutional that the rules governing the constitution of the Council of Czech Television are divided, as the petitioners state, between a legal enactment of a substantive nature and one of a procedural nature, since rules of a substantive nature - those concerning the Council of Czech Television, its formation, powers, etc. - must be regulated by an enactment of a substantive nature (the Act on Czech Television), in contrast to which the substance of the manner in which the Chamber of Deputies goes about electing the members of the Council of Czech Television must be regulated unequivocally in that act which governs the proceedings of the Chamber of Deputies, therefore the Act on the Standing Orders. If in connection with the first objection concerning the constitution of the Electoral Committee, the Constitutional Court drew the conclusion that the Electoral Committee was established by the Chamber of Deputies in a constitutionally conforming manner and was entrusted with the authority to participate in the elections of members to the Council of Czech Television, then the actions of the Electoral Committee in electing members of the Council of Czech Television can be considered as the actions of the Chamber of Deputies itself.

According to § 32 of the Act on the Standing Orders, the Electoral Committee is one of the committees of the Chamber of Deputies', this is to say, it is a body duly provided for by law with defined competencies and proceedings. The Committee's activities are governed by Part Six, §§ 32 - 46a of the Act on the Standing Orders. It can be concluded unambiguously from the rules concerning its proceedings, such as are laid down in § 36 and following of the Act on the Standing Orders, that the Committee's work is governed by the standard rules that apply for the proceedings of a democratically established body. Members of the Committee are authorized to participate in its meetings, to propose additions or modifications to the agenda, make initiatives, proposals, and comments. All such proposals are then decided upon in the manner precisely regulated by the Act on the Standing Orders. Committees are responsible to the Chamber of Deputies for all of their activities.

As can be deduced from the documents mentioned in part IV, in eliminating candidates the Electoral Committee proceeded in accordance with § 4 paras. 2, 3 of the Act on the Standing Orders, thus it judged whether the formal requirements laid down by law had been fulfilled (a nomination submitted by authorized subjects, fulfillment of eligibility requirements for membership in the Council of Czech Television). It cannot be objected that this manner of proceeding constitutes a violation of the principle of equal conditions

for access to any elective office. Nor can a violation of that principle be found in the other way in which the Electoral Committee proceeded, by which the selection of a restricted number of candidates was then further carried out solely on the basis of an election by secret ballot. It is entirely clear that this manner of proceeding allowed for all nominated candidates to have the same opportunity for access to this office.

In view of the foregoing and in consequence of the respect for the principle of proportional representation in the constitution of the Electoral Committee, one cannot come to the conclusion that Art. 21 para. 4 of the Charter has been violated, nor that citizens have been denied access, on an equal basis, to any elective or other public office (membership in the Council of Czech Television). Once again the evident intention of the Chamber of Deputies should be reiterated, to form its body (while respecting the principle of proportional representation), which evidently created the conditions for making more effective the Chamber of Deputies' activities when electing members of the Council of Czech Television. The maintenance of equal conditions for citizens in terms of access to any elective or other public office can be found in their equal opportunity, through the proposals of qualified persons, to compete for the office of member of the Council of Czech Television, and that from the perspective of the existence and competence of the Electoral Committee established by the Chamber of Deputies on the basis of the principle of proportional representation.

Finally, the petitioners also object that that portion of the current text of § 46a para. 2 of the Act on the Standing Orders which reads „ ... and select from the proposed candidates who meet the requirements pursuant to this Act ...“ is defective, as it is not unambiguous which Act is referred to by the formulation „ ... this Act ... “, especially as the Act on Czech Television is not even cited in the Act on the Standing Orders and, in the given context, the legislature could not have had the Act on the Standing Orders in mind. The Constitutional Court states in reaction to this observation that, although the formulation of words chosen is not particularly suitable, it is unambiguously clear from the overall context of the contested provision, that its § 46a of the Act on the Standing Orders, that it refers to the election of members to the Council of Czech Television, and it can thus be deduced that the requirements for the performance of this office are laid down in the Act on Czech Television. In this connection, the Constitutional Court affirms that the inexact formulation is rather of a technical character and that in no case does it render the contested provision unconstitutional.

In view of the foregoing, the Constitutional Court has come to the conclusion that the contested provisions do not violate Art. 21 para. 4 of the Charter.

**Notice: The judgment of the Constitutional Court may not be appealed.**

Brno, 30 April 2002